

Am. B. 3040

Proceedings

(265¹), 2

REPORTS OF COMMITTEES

HOUSE OF REPRESENTATIVES

OF THE HOUSE OF REPRESENTATIVES

1869-70

Printed by
G. W. Johnson & Co.
Washington, D. C.

WASHINGTON:
G. W. JOHNSON & CO. PRINTERS



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FOR THE

SECOND SESSION OF THE FORTY-FIRST CONGRESS.

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LYDIA E. CARHART

MARCH 3, 1870.—Ordered to be printed and recommitted to the Committee on Patents.

Mr. JENCKES, from the Committee on Patents, made the following

R E P O R T .

The Committee on Patents, to whom was referred the petition of Lydia E. Carhart, administratrix of Jeremiah Carhart, deceased, for the extension of letters patent for improvements in musical instruments, beg leave to report :

They have examined into the case presented to them, and have heard counsel in behalf of the petitioner, and from the evidence submitted to them, and also from the records of the Patent Office, and of the Supreme Court of the United States, and the reports of the decisions of the circuit courts of the United States, they find the following facts and arrive at the following conclusions thereon :

This patent was originally granted to Jeremiah Carhart, on the 28th day of December, 1846, and was entitled "A new and useful improvement in bellows for musical instruments." The claims of this patent not being satisfactory to the patentee, it was surrendered in 1856, and a reissued patent taken with the same title, but with a different claim. This not proving satisfactory, the reissued patent was surrendered in 1857, and a second reissued patent taken out, entitled "A new and useful improvement in reed musical instruments." This patent contained four claims, three of which were entirely new. This second reissued patent was extended for the term of seven years from 1860.

Suits were commenced against alleged infringers, in the name of the patentee and his co-owner, one of which was brought to trial in the district of New Hampshire, and is reported in 2 Fisher's Patent Cases, p. 543, under the name of Carhart *vs.* Austin.

In this case it was decided that the new matter, which was the foundation of the new claims in the second re-issued patent, was an interpolation and not an amendment, and that the Commissioner of Patents had no authority to allow the same, and that the reissued patent was therefore void. An appeal from this decision to the Supreme Court of the United States was dismissed, so that the law governing this patent is definitely settled.

Proof was offered in the case cited, and was tendered to the Committee, that the inventor had made a mistake at the time of taking out his original patent, in submitting to his solicitor a crude and imperfect model of his invention, instead of a perfected instrument which he had before that time constructed and put in operation and which in fact was left at the Patent Office and presented to the custodian of the models. The last reissue was alleged to have been based upon this

perfect instrument, which had been traced and found, and which contained the improvements for the first time described and claimed in the last specification. This offer was met in the case in New Hampshire by evidence tending to prove that these portions of the instrument were not new at the time of taking out the original patent, and were properly omitted from its specifications. The court did not look into this evidence, but dismissed the suit on the ground that the reissued patent was for another and different invention from that described in the original specification.

It would obviously be of no use to the petitioner to have an extension of the original patent upon a specification which the inventor admitted by the surrender of it to have been invalid by reason of a defective and insufficient specification, and it would be manifestly improper as well as useless to grant an extension of the last reissued patent, upon a specification which the courts have declared void.

In this dilemma the petitioner asks that he may be allowed to go before the Commissioner of Patents and be allowed to take a patent for a new term, for what she can show that Jeremiah Carhart had actually invented prior to the taking out of his original patent in 1846. But the interests of the public require that this should not be done, and there is no equity shown in behalf of the original inventor as a pretence for granting extraordinary relief in her behalf. It appears that in taking out his original patent the patentee had the advice or assistance of two of the most accomplished solicitors of patents in the country, and that it was his own fault if he failed to describe the whole of his invention accurately to them while he admits that he had then embodied it in a perfect instrument which he gave to one of the officers in the Patent Office, and suffered it to become known to the public, and adopted into general use.

It seems, also, that he had the advice of competent solicitors in obtaining his last reissue, and that one of the solicitors who procured his original patent was counsel in the case in New Hampshire. If they persuaded the Commissioner of Patents to grant for their client a reissued patent which the courts have declared to be void upon its face, because it showed an attempt to obtain from the public, during the term for which the patent had been granted and extended, more than the inventor was entitled to hold as against the public, such conduct certainly affords no reason why Congress should grant his administratrix relief against the consequence of his own deliberate acts.

The case is presented upon the assumption that if the invention had been well patented the inventor would have received the remuneration which the patent law contemplated during the period that it would have received protection by those laws. The reason why such remuneration was not obtained is to be found in the acts of the inventor and his counsel. It would be manifest hardship and injustice to allow a patent to be now granted for improvements which have been for more than twenty years in general use in all the parlor organs and melodeons in the country, as well as in many other musical instruments, and for which the inventor lost the benefit of the patent, which he did take out, by his own folly and negligence.

The committee recommend that the petition and accompanying papers be laid upon the table.

LITTLE ROCK AND FORT SMITH RAILROAD.

MARCH 3, 1870.—Laid on the table and ordered to be printed.

Mr. WINANS, from the Committee on the Public Lands, made the following

R E P O R T .

The Committee on the Public Lands having had under consideration the bill (H. R. 1069) "To amend an act entitled 'An act to extend the time for the Little Rock and Fort Smith Railroad Company to complete the first section of twenty miles of said road,' approved April 10, 1869," respectfully report :

That by act approved July 28, 1866, there was revived a grant and granted to said company lands, in alternate sections, within twenty miles of its road, to aid in the construction thereof, upon condition that if one section of twenty miles should not be fully constructed and completed as a first-class railroad within three years from the time said act should become a law, &c., and the whole within ten years from the time said act should take effect, then all the lands granted, &c., and unpatented, should revert to the United States. That by the third section of said act it was further provided that the provisions of said act, so far as the same relate to the Memphis and Little Rock and the Little Rock and Fort Smith branches of said road, (the said act being complex and embracing other matters,) should not take effect until the Secretary of the Interior should make and file a certificate in his office, and the office of the secretary of state of Arkansas, stating the companies or corporations claiming the benefit of this act, in behalf of said branches, have reorganized their boards in a lawful manner; and after such reorganization, that they had, respectively, rescinded all acts, resolutions, or other proceedings, transferring the lands, rights, and privileges of such corporations or companies to any convention, State, or authority recognizing or acting in concert with, or under the authority of, the late so-called Confederate States of America. That the certificate required by said third section was not filed by the Secretary of the Interior till the 13th day of May, 1867.

That, doubt having arisen as to the time from which the limitation of three years for the completion of the first twenty miles of road, (whether from the date of the approval of the act or from the date of the filing said certificate, said company claiming that the time should be computed from the latter date,) to resolve said doubt a declaratory act was procured and approved April 10, 1869, fixing the 13th of May, 1870, as the time within which the condition should be complied with; to which act there was added a proviso, that said lands should be sold, to actual settlers only, in quantities not greater than one-quarter of a section to one purchaser, and at a price not exceeding two dollars and fifty cents

per acre. That this bill proposes the repeal of the said last-mentioned proviso; pending which in the House and before this committee a similar bill, in substance and effect, has passed the Senate, and is now on the Speaker's table. It should be observed that the act of July 28, 1866, related to a road from the mouth of the Ohio River, *via* Little Rock, to the Texas boundary; and the Memphis and Little Rock and the Little Rock and Fort Smith roads are therein mentioned as branches thereof, concerning which the third section makes the special provision before referred to.

Now, in the opinion of the committee, it may well be held that the act of July 28, 1866, "*became a law*" at the date of its approval; but, so far as the Little Rock and Fort Smith Railroad Company is concerned, it did not "*take effect*" till the filing of said certificate by the Secretary of the Interior on the 13th of May, 1867. That the latter company *could not* avail itself of the provisions of the act till the certificate was filed, and that as to it the act was *not a law* till the filing of said certificate. Construing the act of 1866, moreover, by the usual rules of construction, regarding the whole and giving effect to every part thereof, its reason and spirit require that said company should have the benefit of the full period of three years in which to construct the first twenty miles of its road, unless expressly abridged in this respect, which it is not. And if there be any conflict between precedent and subsequent sections of the act, the former ought to give way to and be superseded by the latter. But whether this interpretation of the act be just or otherwise, the Congress, by the act of April 10, 1869, declared that such was its true intent and meaning. A declaratory statute merely, not granting lands nor reviving a dormant or lapsed grant, and conferring no original nor substantial rights or benefits, ought not, in the opinion of the committee, to provide conditions, and believing that the proviso to the act of April 10, 1869, was attached through inadvertence, or without full appreciation of the actual character of the bill, the committee are of the opinion that the condition should be removed, and therefore recommend that this bill be laid upon the table, and that the Senate bill do pass.

Respectfully submitted.

C

TELEGRAPH WITH FOREIGN COUNTRIES. •

[To accompany bill H. R. No. 1263.]

MARCH 3, 1870.—Ordered to be printed and recommitted to the Committee on Foreign Affairs.

Mr. WOOD, from the Committee on Foreign Affairs, made the following

REPORT.

The Committee on Foreign Affairs, to which was referred that portion of the President's message relating to the French Atlantic cable, and also a resolution passed by the House on the 10th December, 1869, directing the committee to inquire into and report the conditions by which the so-called French Atlantic Cable Company holds the concession of the government of France to connect their cable with the French shore, and whether there are any restrictions or reservations in said concession which are prejudicial to the rights of the government of the United States, or to the people thereof, and also any further information relating thereto, and which affect ocean telegraphing, together with such recommendations in the premises as, in the judgment of the committee, may be required, have had the same under consideration, and beg leave to report—

That the question of inter-oceanic connection by telegraph has become one of vast importance, not only as an agency designed to effect extraordinary changes in the commercial relations of maritime countries, but as establishing new and more liberal rules of international intercourse between governments themselves, in times of peace as well as of war. The progress made by the world within the past thirty years, in the increased facilities afforded for the greater exchange of commodities, and the more rapid interchange of intelligence through the instrumentality of the inland telegraph, the rail, and the press, has accomplished more for the elevation of humanity, and the security of individual freedom, than the previous five hundred years had done. As between the people of the same nation the change for the better from these causes has been wonderful, and when extended to the people and governments of different, but connected, nations the effect has been equally beneficial. The rapid progress in Europe to a more enlightened policy in dealing with each other, and an enlargement of commercial relations, may be mainly attributed to these influences. But when the same great principle is extended so as to bring nations which are separated by thousands of miles of ocean into immediate intercourse, an equally surprising result is effected. Thus may we confidently predict, that through this means, within a short period, the whole Christian world will be brought within the influence of a universal family circle, comprehending all forms of government, and all religions and creeds, making up a vast community—one in everything that concerns political action, tariff regulations,

coinage, currency, commerce, interchange of literature and the arts, material improvements, and in all the other agencies by which the world is moving onward to a higher destiny, and a more catholic spirit of fraternal accord. It is with this view of the magnitude of the importance of ocean cables, not only as to the United States, but the world, that the committee approach the consideration of the subject immediately referred to it.

Ocean marine cables are of comparatively recent construction. Within the last decade the first was laid between America and England, under American enterprise and with American supervision. Though this remarkable attempt was for a time frustrated by physical difficulties, yet the energy and mental power of our own countrymen, aided by foreign capital, surmounted them, and accomplished a result destined to be considered in history as the pioneer in this new agency of progress. Since then many other cables have been projected and several have been laid.

Besides the French cable there are others of less extent, and some, of equal extent, in the course of construction. The China Sub-marine Telegraph Company of England, in connection with other like companies, with European East India cables, have just undertaken an extension of connected cable to the Empire of China. An even greater enterprise has just been accomplished by the laying of a cable between Suez and Bombay, a distance of thirty-six hundred nautical miles. This line connects with the present Alexandria and Malta line, which again connects with the continent, and forms a united link of telegraphic connection between England and her East India possessions. The first dispatch by this line was received in London on the 28th day of February last. Still another project is being industriously prosecuted, of connecting the north of Europe across to Eastern Russia, through European Russia to the east, overland from that point. This is under the direction of a Danish company, operating under the subsidy and protection of the government of Russia. Several other companies are being formed which, if successful, will, with those already existing and projected, lay cables which will engirdle the globe, so that no obstruction of "hill or dale, ocean or mountain," will intervene to prevent the free and regular connection of the people of the world with each other, from the nearest to the most distant parts. The history of the French cable is briefly as follows: On the 23d June, 1868, the government of France, through the director general, approved by the minister of the interior, issued *cahier des charges* for the establishment of a sub-marine line of telegraph between France and the United States. As the conditions and reservations of this paper form the basis and conditions of the concession of the government of France to the present company, it is sufficiently important to state it entire.

"Cahier des charges" for the establishment of a sub-marine line of telegraph between France and the United States of North America.

The concession of a sub-marine line of telegraph between France and the United States of America will be made at the office of the director general of telegraph lines on the 6th July, 1868, at 2 o'clock in the afternoon, to the persons whose tender shall offer the greatest reduction on the term of twenty years, mentioned in the 2d article of the present "*cahier des charges*," and upon the tariff of 100 francs, mentioned in the 4th article. The line will commence at Brest, and terminate at some point of the coast of the United States of America between Boston and New York. It will not touch, on its course, the territory of any foreign state, but may pass by St. Pierre, (Newfoundland,) French territory. It must be completed and in working order by the 1st of September, 1869.

2. The government engages not to grant other concessions for lines between France and North America during a maximum period of twenty years from the 1st of September, 1869.

3. The rules of the Telegraphic Convention of Paris, or of any other international conventions, which may be hereafter substituted for it, shall be adopted on this line.

4. The tariff for messages of twenty words, through the length of the cable, shall not exceed 100 francs.

5. This tariff shall be reduced by one-half for government dispatches, which shall have precedence.

6. The government reserves to itself the right of establishing, at the expense of the concessionaires, such control over the service of the line as it may judge convenient. For this purpose the service of the line shall have its office in one of the rooms belonging to the telegraph office of Brest, the rent of which room shall be repaid to the state by the concessionaires. The clerks of the telegraph office of the state shall be the indispensable intermediaries between the public and the agents of the concessionaires in the transmission of messages. The messages received by the cable shall be immediately handed to them, and be delivered through their agency. The messages to be transmitted by the cable shall, in like manner, be lodged with them, and handed by them to the agents of the concessionaires.

7. The company which will be formed by the concessionaires cannot amalgamate with any other company, whether French or foreign, having a concession for a transatlantic cable, nor transfer or lease its line, without permission from the government.

8. If during the duration of the concession one cable shall become insufficient, by reason of the traffic, or from any other cause, the concessionaires shall be bound to lay down a second within eighteen months after notice given to them by the administration, unless they prefer to renounce the privilege belonging to them according to Article II, of the present "*cahier des charges*." In this latter case, they shall make known their decision within three months from the above-mentioned notice. The course above stated will be followed with reference to all other supplementary cables which may have to be laid.

9. If during the duration of the concession, telegraphic communication shall be interrupted for a consecutive period of eighteen months, the privilege granted in favor of the concessionaires, shall, *ipso facto*, cease, and the government shall resume the right of granting such other concessions as it may desire.

10. No one shall be admitted to tender without being previously approved by the minister of the interior, and unless he has paid at the "*caisse des dépôts et consignations*" at Paris, caution money to the amount of 500,000 francs. The parties tendering shall prove the payment of this caution money by annexing to their tender a certificate issued by the "*caisse des dépôts et consignations*."

11. The concessionaires shall be bound to prove, between this date and the 15th of September next, the legal constitution of their company, with a capital of 27,500,000 francs, and also the subscription for the whole of the shares, amounting to this capital. In default of their fulfilling this condition, their caution money shall belong to the state, and the concession annulled. In case the concessionaires, after having made studies, should find this sum insufficient, they will be allowed to increase the capital to the sum of 40,000,000 francs.

12. An agent of the administration of telegraph lines, shall be admitted to the factory where the transatlantic cable will be made, as often as the administration may demand it of the concessionaires. The administration may also commission one of its agents to examine, when finished and put on board, the cable. The cost of this inspection shall be borne by the concessionaires.

13. The caution money paid by the concessionaires shall be repaid when the cable is complete, and put on board ready to be submerged, and shall be acknowledged to be in good condition by the administration.

14. The non-compliance by the concessionaires with any of the articles of the *cahier des charges*, involves, *ipso facto*, withdrawal of concession.

15. The tenders, which must be written on stamped paper and in accordance with the form below, must not contain any restriction or reserve on pain of nullity. They shall contain an election by the concessionaires of a domicile at Paris for all acts relative to the concession. The tenders inclosed under envelop sealed with wax, shall be put in the hands of the director general of telegraph lines, at the time of adjudication. In case any tender is signed by procuration, the person signing shall annex a notarial copy of his power of attorney. Tenders made by telegraph will not be accepted. If none of the offers are below the figures fixed in articles 2 and 4, the competitors may be admitted then and there to make fresh offers; these fresh offers shall be written at the foot of their tenders, and set forth in the *procès verbal*.

16. Reductions on the maximum tariff of messages can only be of five francs, or multiples of five francs. Reduction in the duration of the concession can only be for one or more years, without fraction. A reduction of one year will be considered equivalent to a reduction of five francs.

17. Any dispute which may arise between the concessionaires and the government on the subject of the execution or of the interpretation of the present *cahier des charges*, shall be decided administratively by the council of the prefect of the department of the Seine, with appeal to the council of state.

18. The stamp duty and the fixed registration duty shall be borne by the concessionaires.

PARIS, 23d June, 1868.

Approved :

The Director General,
VISCOUNT H. de VOUGY.
Minister of the Interior,
PINARD.

The following official announcement gives the result of bidding and the awarding of the concession :

PROCÈS VERBAL—MINISTRY OF THE INTERIOR—GENERAL DIRECTOR OF TELEGRAPHS.

Procès verbal of the concession of a transatlantic cable between France and the United States of North America.

THE 6TH OF JULY, 1868, at 2 o'clock p m.

In conformity with the decision of his excellency the minister of the interior, dated 23d June, 1868, the director general of telegraphs, assisted by MM. Baron Amiot, inspector general Raymond, inspector, and G. Saubussire, sub-inspector secretary, proceeded to the concession of a submarine telegraph line between France and the United States of North America. The proceedings were opened at two o'clock; one tender only was placed in the hands of the director general, and opened at five minutes past two. The Baron Erlanger, and Mr. Julius Reuter, the parties tendering, engaged to complete the sub-marine communication on condition of obtaining an exclusive privilege for twenty years, and fixing the maximum tariff applicable to messages of twenty words at 100 francs. They further engage to fulfill all the clauses and conditions of the *cahier des charges* drawn up on the 23d June, by his excellency the minister of the interior. Annexed to their tender was a receipt from the "*caisse des dépôts et consignations*," showing the payment made by them of the caution money of 500,000 francs, required by the 10th article of the "*cahier des charges*." The Baron Emile d' Erlanger and Mr. Julius Reuter, having complied with all the conditions fixed by the "*cahier des charges*," are declared concessionaires. Their tender remains annexed to the present "*procès verbal*," which will be submitted for approval to his excellency the minister of the interior.

Done at Paris the day, month, and year above stated.

The Director General,
VISCOUNT H. de VOUGY.
The Inspector General,
BARON AMIOT.
The Inspector General,
RAYMOND.

On the 31st of July, 1868, Messrs. Erlanger and Reuter purchased of Charles Harvard and Charles Christian Leigh, of the city of New York, certain authority, derived by act of the legislature of the State of New York, granting to William Orton, C. C. Leigh, and Charles Harvard an exclusive right to lay telegraphic cables from that State to the empire of France. For this privilege \$30,000 was paid in gold. It appears that Messrs. Orton & Co. had effected the passage of the acts through the legislature of New York under a promise to lay a submarine cable, and the legislature not doubting the good faith of those parties the franchise was granted without hesitation. It seems, however, that this was not done, and the privileges so obtained were put into the market for sale, and the grant was sold to the concessionaires of the French cable, who, attaching importance to the supposed privileges of these acts, actually paid for them the enormous sum stated. Subsequently it was discovered that another point of connection in the United States afforded better facilities, and Massachusetts and the present terminus was selected. The next step was the formation of the French company, under the title of the "*Societe du Cable Transatlantique Français*," with a capital of £1,200,000, its principal place of business, London

its first president being Robert Lowe, M. P., the present Chancellor of the Exchequer of England. The concession from the French government, under which this company was formed, bears date of the 6th July, 1868, and the company was incorporated on the 10th of August of the same year. It is of some importance, in this connection, to state that at that time the only law on the statute books of the United States for the regulation of telegraphic intercourse was the general act of 1866, which provides that telegraphic communication may be established freely in and over the waters of the United States by any company organized under the laws of any State in the Union. Indeed, down to the present moment, there is no other law of a general bearing on the subject in existence in this country. The rumor, however, of the enterprise upon which the French Cable Company was about to embark caused the introduction into Congress of various measures, framed with a view to the establishment of a special code of regulations affecting ocean cables. These propositions finally assumed the form of a bill, presented to the Senate on the 3d February, 1869. This bill was called up the 2d March, when, in the press of business incidental to the impending dissolution of Congress, it passed the Senate hurriedly, and without any discussion whatever, but it failed to be reached in the House of Representatives before adjournment. On the 11th of March it was reintroduced, and although called up on more than one occasion, it failed, after discussion, to pass the Senate previous to the adjournment of Congress in April last. In the meantime, assuming that this bill represented the feelings of Congress on the subject, the Secretary of State, on the 10th of July, 1869, addressed a letter to the British minister and the French *chargé d'affaires*, inclosing a copy of the bill, and intimating that the government of the States considered that this bill announced the probable policy and purpose of Congress in the premises. This had the effect of drawing from the agent of the French company in the United States a letter agreeing, on behalf of the company, to abide by whatever enactment Congress should see fit to pass. This is the present position of the matter.

The grounds upon which the concession of the government of France to the French cable company is opposed in the United States, are—

First. That it imparts an exclusive privilege for twenty years.

Second. That that government reserves the right to exercise a supervision over all messages that may be transmitted. With these objections it is difficult to be reconciled. The United States exercises a spirit of equal and exact justice in its intercourse with nations. It asks nothing but what is right, and will consent to nothing that is wrong. It is quite willing to concede, but must have concession in return. There must be entire and cordial reciprocity. Of the right to lay an Atlantic cable to connect France and the United States, by an American citizen, we cannot be denied. If a French or English company is allowed to connect a French or English cable with our shores, so do we insist that the same privilege shall be extended to our citizens, if any such desire to connect any American cable to their shores. On this ground of reciprocity we shall stand with firmness and unyielding determination. With reference to the reserved rights of the government of France to inspect the dispatches which pass over the French cables, there is much to be said on both sides. It has been stated that this right extends to the absolute censorship of all matter, and that the government holds under surveillance, for purposes of examination, every dispatch that passes over the cable from this country. To this charge the French government has caused the following explanation to be given:

OFFICE OF THE DIRECTOR GENERAL OF TELEGRAPH LINES,
Paris, December 31, 1869.

The message of the President of the United States to Congress contains a part relative to the French Trans-Atlantic Cable, which this administration considers it a duty to correct. It states, in substance, that according to the terms of concession, dispatches from America transmitted by that route are subject to control and examination of the French government. This administration exercises no control of that nature from America, or from any other quarter, but it is their duty to see that messages are transmitted over the cable in the order of their reception at Brest, and that there is no favoritism in this respect. It must also, on account of the telegraphic monopoly held by the government, see that no dispatches are clandestinely introduced upon the line, and so avoid a tax which legitimately accrues to the state. Its aim is at once to protect the interests of the public and the treasury. Finally, the conditions under which this department exercises control over the business of the line are without political intention. Its subordinate employés are charged with the task, and their duty is restricted to the verification of cyphers, such as the signals of time and place of filing and of re-forwarding, and the number of words which form the basis for the application of the government tax. Again, most of the dispatches, particularly those destined for Nantes, Bordeaux, Tours, and Toulouse, arrive at their destination without passing through Paris, and the same is true with correspondence addressed to England and Spain, such messages being transmitted direct from Brest to London.

According to this, the object of the government, in exercising its control, is for the benefit of the public, in preventing favoritism in the order of sending messages, and to secure the payment of the tax. These are proper motives, and if confined to them, would not be objected to. But the spirit and letter of the official conditions, on which the concession to the company was granted, still remain, and go much further than this. How far the government may exercise its reserved right is another question. We take exception to the fact that any such authority should rest anywhere, especially in the hands of those who may, in time of war, or at any other moment, choose to place, not only the dispatches of our government, but of all others, under official inspection. The director general in this note confines himself simply to the declaration, that he does not exercise a "control of that nature." This may be true as far as the present time is concerned, but the power to do so exists, and we have no security that it may not be exercised hereafter, either by him or some successor. The people of the United States will tolerate no such right, whether in its own government or of any other. Official curiosity or interference in the affairs of private life, is in violation of the fundamental principle on which rests our political fabric. It may be proper to state that in France, as well as throughout Europe, all telegraphing is under the exclusive control and direction of officials. All the lines have become government property, and are worked by government agents. England has at last come into this system, that government having recently purchased the lines which were established by private capital. So important has become this means of intercommunication, international conventions have been recently held, in which all the continental nations have been represented. It was found that obstructions and difficulties were constantly arising, and that some general rules should be agreed on. A convention for this purpose was held at Paris, 17th May, 1865, and another, which was organized more thoroughly, at Vienna, 21st July, 1868. The objects accomplished by these conventions have been to settle, internationally, all the various questions which naturally arise in the management and conduct of telegraphy. Therefore, in considering this question, with reference to the European connections of American ocean cables, we must bear in mind that throughout Europe all communication by telegraph, is under the government eye. It is not in France alone that this is the case. It is equally so now in England. No cable can be laid between our own coast and that of France by which we

could avoid or be exempt from like difficulties. Our messages may reach the shore, but on their way to the interior they would, of necessity, pass through the official lines, and be subjected to their rules and authority. Thus, though we had twenty American lines, our control over the dispatches forwarded by them, would cease when reaching the foreign shore. All dispatches sent to the continent by the English Atlantic cable is liable to the same objection. When they reach England they must be transmitted by other lines, and when leaving England and entering France they are at once subjected to the same constraint as other dispatches. Thus, the two existing Atlantic cables are precisely on the same footing, so far as their official inspectorship is concerned. Throughout Europe the telegraph is as much a matter of official regulation as is the post office or any other department of government. The government owns and works it. Nor can we complain of this. Every nation has a right to regulate its own internal affairs. It is a well-settled principle of international law, that these are matters with which other nations have no right to interfere. They are internal regulations over which each people have sole and entire authority. It is under this rule that the United States can and should stand, with reference to the same question as affecting ocean cables.

While we cannot exercise the same supervision over intelligence conveyed to our shores by cables of foreign construction and ownership that France assumes in this case, because it would be inconsistent with our institutions, nevertheless, we have a right, and should exercise it, of asking that all cable companies connecting with the American coast shall secure to the government, as well as to the persons of the United States, similar exemption from inspection or interference with messages transmitted from this end, until reaching the place of destination. The Secretary of State is entitled to much credit for having already taken steps toward the removal of the difficulties which have arisen from these causes. The recent breaking of the Cuban cables, and the pending difficulty with the French cable, has probably suggested the necessity of establishing, by convention, some general regulations on principles of reciprocity and neutrality. On the 18th November, 1869, the Secretary of State addressed to our ministers and consuls abroad instructions looking to the formation of conventions for these objects. It cannot be doubted that the principal nations of Europe will see the necessity and propriety of meeting in a friendly spirit this intelligent proposition. There is reason to believe that France and England will speedily accept and ratify conventions looking to this end; meanwhile no short-sighted policy should be adopted to affect, injuriously, existing cables. It is the duty of Congress and the Executive to foster and facilitate all enterprises of this character. We have too much at stake to allow any matter of mere pride or prejudice to interfere with public enterprises of such vast commercial and political importance to ourselves. It is our duty, in view of the interests involved, to extend liberal encouragement to ocean telegraphing. While we should adopt a general law governing the conduct of all cables, in which the interests of the people and the government should be alike protected, we should also impose no conditions which will impair their efficacy or render unprofitable the capital which such daring enterprise has invested. Of all species of speculation, that of laying ocean cables is the most insecure. It is subjected to more hazards than any other, and should be made to yield a speedier and larger return in consequence. The success of the French cable company is a rare accomplishment of energy, capital, and intelligence. It is the work of individuals without any governmental aid whatever.

Starting with the opposition of a powerful rival, in the other Atlantic cable, it reached a successful accomplishment without delay or accident. It is in the enjoyment of no subsidy or governmental favors, and has no property or advantage not the result of purchases by the money contributed altogether and entirely by its stockholders. The Atlantic Telegraph Company, on the other hand, has received immense favors. From Newfoundland their company acquired money and lands of great value. The privileges granted constitute a monopoly of telegraphic rights in Newfoundland, the value of which was enhanced afterward by similar concessions from the State of Maine, Nova Scotia, Prince Edward Island, and liberal encouragement from Canada.

By their chartered rights, the company obtained the exclusive privilege for fifty years, of landing cables on Newfoundland and Labrador, which embraces a coast, extending southward to Prince Edward Island, Cape Breton, Nova Scotia, and the State of Maine, and their respective dependencies, and westwardly to the very entrance of Hudson's Straits. The company also secured a grant of fifty square miles of land, on the completion of telegraph to Cape Breton; a similar concession of additional fifty square miles, when the cable shall have been laid between Ireland and Newfoundland, a guarantee of interest for twenty years, at five per cent. on £50,000, a grant of £5,000 in money, toward building a road along the line of the telegraph, and the remission of duties, on the importation of all wires, and materials for the use of the company. The company also obtained from the legislature of Prince Edward Island, in May, 1854, the exclusive privilege for fifty years of landing cables on the coast, a free grant of one thousand acres of land, and a grant of £300 currency, per annum, for ten years. From Canada, the company obtained an act, authorizing the building of telegraphic lines throughout the provinces, accompanied by the remission of duties on all wires and materials imported for its use. Nova Scotia, in 1859, gave the company a grant of exclusive privilege, for twenty-five years, of landing telegraphic cables from Europe, on the shore of the province. The State of Maine accorded the company a grant of exclusive privilege for twenty-five years of landing European telegraphic cables on the sea-board. From Great Britain, eventually, the company obtained an annual subsidy of £14,000 sterling, until the net profits of the company should reach six per cent. per annum, on the whole capital of £350,000 sterling, the grant to be then reduced to £10,000 sterling per annum for a period of twenty-five years; two of the largest steamships in the navy to lay the cable, and two steamers to aid them, and a careful examination of the soundings by vessels of the royal navy. From the United States the company obtained an annual subsidy of \$70,000 until the net profits yielded six per cent. per annum, then to be reduced to \$50,000 per annum for a period of twenty-five years, subject to termination of contract by Congress, after ten years, on giving one year's notice. The United States government also granted the steamship Arctic, to make soundings, and steamships Niagara and Susquehanna to assist in laying the cable. A government steamer was also ordered to make further soundings on the coast of Newfoundland.

We do not refer to these various favors bestowed upon this company in disparagement of that great work, but as showing how high was estimated the advantages to result from the success of the enterprise. The French company has accomplished the same results with no outside aid. It has gone on successfully, without a minute's delay, from the hour it was first opened to the public. It has improved the method and increased the efficiency of ocean telegraphing, and, what is of much

interest to the people, it has compelled a reduction of one-half in the cost of transmission. Adopting a tariff of prices just fifty per cent. below that which was at that time charged by the other company, it forced that company to reduce its rates accordingly, where it now remains. There can be, therefore, no just grounds for the threatened discrimination against the French company, which is proposed, by legislation in the Senate. While a general law should be speedily adopted which shall affect all companies alike, it would be unwise and unjust to go back so as to reach injuriously either of the existing Atlantic or any other cables. Before completing, however, any legislation on the subject, Congress should consider fully the terms of the Vienna convention, containing regulations, as before stated, agreed upon by the European governments for the management of international telegraphing. It is desirable that any rules or provisions of law which Congress may adopt with reference to ocean cables connecting with Europe may be made with reference to the rules agreed on in those conventions; otherwise, a different system of administration would exist at either end, which would cause inconvenience and embarrassment to both. The ground urged for legislative enactment against the French cable, because France denies to the United States or its citizens the right to lay a cable to connect with the coast of France, is not tenable. That difficulty is likely to be of temporary existence. It is now quite well settled that France will reconsider the exclusive grant made to the concessionaires of the Franco-American cable. Besides the probabilities of the ratification of a convention between the two governments, by which neutrality and reciprocity will form the general basis, it is understood that the company itself is in negotiation with the French government for the relinquishment of the monopoly which their concession guarantees. So certain is the latter of these probabilities to be accomplished, that Congress would be quite safe in adopting a general bill, universally applicable, establishing the principles and rules by which all ocean cables shall hereafter be governed which has origin or terminus on our shores. The bill reported is universal in its application. It protects the government of the United States as well as the people, and settles certain conditions upon which all privileges of this character shall be granted and by which the cables shall be conducted. It is altogether prospective in its character, thus avoiding not only the vicious system of retroactive legislation, but advertising in advance the rules under which all shall come hereafter. It has no provision inconsistent with the safety or security of the rights of the United States, nor with the regulations established by the Vienna convention, which will necessarily govern all dispatches from this country, transmitted by cable, when reaching the continent of Europe.

H. Rep. 35—2

MOUNT VERNON RELICS.

MARCH 17, 1870.—Ordered to be printed and recommitted to the Committee on the Judiciary.

Mr. KERR, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom was referred the resolution of the House adopted April 5, 1869, directing inquiry concerning the proper disposition to be made of the "Mount Vernon relics," report:

In order to obtain the most reliable information on the subject so referred to the committee, an inquiry was addressed to the Adjutant General of the Army for all evidence to be found in the records of the War Department concerning the "Mount Vernon relics," and in answer thereto the committee are supplied with the following correspondence:

ADJUTANT GENERAL'S OFFICE,
Washington, January 29, 1870.

SIR: In reply to your inquiry of the 25th instant, relative to certain relics formerly in the possession of Mrs. Mary Custis Lee, and now supposed to be in the possession of the government, I have the honor to transmit herewith copies of all the correspondence bearing upon the matter which the records of this office afford.

Very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant General.

Hon. M. C. KERR,
Member of Congress, Washington, D. C.

DEPARTMENT OF THE INTERIOR,
February 8, 1862.

SIR: Agreeably to the request of your note of the 30th ultimo, I return herewith a letter of General McDowell addressed to you on the 7th ultimo, in relation to the "Mount Vernon relics" at Arlington House, which was received here with your communication of the 13th ultimo.

Very respectfully, your obedient servant,

CALEB B. SMITH, Secretary.

Brigadier General S. WILLIAMS,
Assistant Adjutant General,
Headquarters Army of the Potomac, Washington, D. C.

HEADQUARTERS DIVISION,
Arlington, Virginia, January 7, 1862.

GENERAL: Shortly after coming into the command of the then department Northeast Virginia, with my headquarters at this place, I received a letter from Mrs. R. E. Lee, daughter of the former proprietor of this house, and from an expression in it I received the impression that all of the Mount Vernon relics which had been deposited here had been removed at the time of her leaving, and I remained under this belief till a few days since.

On my coming here I found the house occupied for public purposes, and for reasons not necessary to go into at this time I refrained from occupying it personally, but encamped near it; and during the several times I have been here I have continued in camp, until a very recent period, when an injury compelled me to seek quarters indoors.

A short time ago an old negro woman belonging to the estate came to tell me she had been intrusted by her mistress with the key of one of the cellar rooms, and that some time back this room had been broken into and was now open, and as it contained china which was exposed, the boxes in which it had been packed having been broken open, she wished to be relieved of the responsibility of having the key. I had the door closed, and also that of the garret, which I found had been broken open.

Last week the Hon. Caleb Lyons, being here on a visit and learning of the these facts, expressed a wish to see this china, as having frequently been a guest of Mr. Custis he was well acquainted with everything in his possession which had belonged to General Washington.

His inspection resulted in the discovery that the cellar room contained, first, the remains of a set of china which had been presented by the Society of Cincinnati to General Washington, which will be found described and drawn page 240, "Mount Vernon and its Associations, by Benson J. Lossing."

Second. Two pieces of a set of china presented by the officers of the French army to Mrs. Washington, which will be found described and drawn on page 241, same work.

Third. Two vases presented to General Washington by Mr. Vaughn, which will be found described and drawn pages 174, 175, same work.

General Washington's punch bowl, with the picture of a ship in it, described and drawn page 303 same work, was here but a short time before, (as I am informed by those who saw it in the cellar,) but has been stolen. There is no question as to the genuineness of these relics. Seeing that I had been mistaken in the belief that there were no relics of Washington at Arlington, I called on the old servants and have ascertained that beside those before mentioned there are here the following articles:

First. General Washington's tea table, described page 303 of Lossing's work.

Second. General Washington's tent, described page 126, same work.

Third. Two gilt ornaments for candelabras, described page 301, same work.

There are also some pieces of furniture brought here from Mount Vernon, but whether they belong to General Washington or the Custis family is not clear.

I have during the times I have been here endeavored to take the greatest care of this house and its furniture, and of the grounds, &c., but from what has been done and what will be done in the changes to take place in the different persons who may occupy this house with their staff, servants, followers, &c., and the crowd of curiosity-seekers constantly coming here, this place is not a safe one for the preservation of anything that is known to have an historical interest small or great.

There is also in the garret a quantity of papers of the Custis family, which are supposed to contain many of those of Washington, Lafayette, &c. These are not safe from pilfering hands. None of these can now be sent to the family to whom they belong.

They are interesting to a large class both North and South, and I feel I should not be fully acquitted of discharging my duty if I do not bring the subject to the attention of superior authority, that some steps may be taken in the matter.

It has been suggested that they should be placed in the Patent Office or the Smithsonian Institute, and Major L. Williams, Sixth Cavalry, whose family is in some way connected with that of the proprietors, suggests to me that his aunt in Georgetown will gladly take charge of them. I am interested only in their preservation, and shall gladly follow any instructions concerning them the major general commanding may be pleased to order or indicate.

I inclose a list of the china referred to, and have the honor to be, very respectfully,
your most obedient servant,

IRVIN McDOWELL,
Brigadier General Commanding Division.

Brigadier General S. WILLIAMS,
*Assistant Adjutant General,
Headquarters Army Potomac, Washington, D. C.*

CINCINNATI CHINA.

13 dining plates and soup plates.

1 punch bowl (broken.)

7 imperfect pieces.

3 salad bowls.

3 soup tureens.

5 sauce bowls.

3 fish drainers.
2 pieces of glass.
10 custard cup covers.
2 little platters.

MARTHA WASHINGTON CHINA.

1 broken plate.
1 sugar bowl.

OTHER CHINA.

2 vases, (porcelain.)

HEADQUARTERS ARMY OF THE POTOMAC,
January 13, 1862.

SIR: I have the honor to present to your consideration the inclosed letter from Brigadier General Irvin McDowell, concerning some relics of General Washington's property, recently discovered by him in the Arlington House, a list of which accompanies the letter.

It is evident that these articles, of a national and historical value, should have greater care and safer keeping than will be possible at Arlington certainly for a long time to come, and I would respectfully beg leave to inquire whether the custodian of the Washington relics, in the national Patent Office, is not the most fitting person to whose care these articles, of like nature and value, can be committed.

I am, sir, very respectfully, your obedient servant,

S. WILLIAMS,
Assistant Adjutant General.

Hon. C. B. SMITH,
Secretary of the Interior.

HEADQUARTERS ARMY OF THE POTOMAC,
January 13, 1862.

GENERAL: Your communication in reference to the Washington relics discovered in Arlington House has been referred to Hon. C. B. Smith, Secretary of the Interior, who has kindly consented that they may be placed for safe keeping in the national Patent Office in this city, with other articles preserved there formerly belonging to General Washington. You will, therefore, take the necessary steps to have them sent there.

It has been suggested that in prosecuting further search for such relics on the Arlington estate, Hon. Caleb Lyon, having been on terms of intimate friendship with the family of Mr. Custis, and being familiar with the locality, may prove a valuable assistant.

I am, general, very respectfully, your obedient servant,

S. WILLIAMS,
Assistant Adjutant General.

Brigadier General IRVIN McDOWELL,
Commanding Division.

[Extract from Letters Received Book, Army of the Potomac.]

JANUARY 16, 1862.

In relation to the Washington relics recently discovered at the Arlington House; proposes to have them removed to the Patent Office.

Papers not on file with records Army of the Potomac.

JANUARY 17, 1862.

DEPARTMENT OF THE INTERIOR,
C. B. SMITH, *Secretary.*

HEADQUARTERS ARMY OF THE POTOMAC,
January 17, 1862.

SIR: I have the honor to acknowledge the receipt of your letter dated the 16th instant, kindly consenting that the Washington relics, discovered at Arlington House, may be

placed for safe-keeping in the cases in the public saloon of the Patent Office. This certainly seems the most appropriate resting place for these mementoes of General Washington, which, as you justly remark, "the whole country has an interest in preserving."

Their transfer has been ordered, and Hon. Caleb Lyon has consented to superintend their transit to the custody provided by your patriotic liberality.

I am, sir, with great respect, your obedient servant,

S. WILLIAMS,
Assistant Adjutant General.

Hon. C. B. SMITH,
Secretary of the Interior.

Official copy:

E. D. TOWNSEND,
Adjutant General.

ADJUTANT GENERAL'S OFFICE, *January 29, 1870.*

All this correspondence was then handed to Hon. J. D. Cox, Secretary of the Interior, with request for such further information touching the facts therein stated as could be afforded by his department. Mr. Secretary Cox referred the same to Hon. S. S. Fisher, Commissioner of Patents, with the following official indorsement:

FEBRUARY 3, 1870.

At the verbal request of Hon. M. C. Kerr, of the House of Representatives, these papers are referred to the Commissioner of Patents, with request that he return the same with a report as to the articles named within, which are now in the Patent Office, and also what, if any, have been removed, and what action in regard to the same may have been taken by public authorities or individuals.

J. D. COX, *Secretary.*

In answer thereto the Commissioner of Patents replied as follows:

UNITED STATES PATENT OFFICE,
February 4, 1870.

Respectfully forwarded to the Secretary of the Interior.

The articles named within are all in the Patent Office at the present time, with others of like character. No action, so far as can be ascertained, has been taken with reference to them, other than that which appears in the within papers.

I should be glad if these and other Washington relics could be removed to the Smithsonian Institute, or some other place of safe-keeping, as the room is wanted for the models.

Very respectfully, your obedient servant,

SAM'L S. FISHER, *Commissioner.*

In returning to the committee the correspondence with these indorsements, Mr. Secretary Cox sent the following letter:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 9, 1870.

SIR: I return herewith the papers respecting the Washington relics, which you left with me on the 3d instant, and have the honor to refer you to the indorsements thereon.

The statement of the Commissioner of Patents communicates all that is known on the subject in this department, and expresses his wishes with regard to the custody of the articles.

I am, very respectfully, your obedient servant,

J. D. COX, *Secretary.*

Hon. M. C. KERR,
House of Representatives, Washington, D. C.

This correspondence, taken together, appears to contain all attainable official or record information concerning the relics, and it discloses very clearly the genuineness of the relics, the manner in which they came into the custody of the government, from whose possession they were taken, and whose property they were when so properly taken charge of by General McDowell.

On the advice of her friends, during the late administration, under date of February 10, 1869, Mrs. Lee, from Lexington, Virginia, addressed the following request to the President:

Mr. PRESIDENT: Encouraged by your kind attention to a former application, and prompted by my friend, Captain May, I now venture to request that you will direct all the articles taken from Arlington and deposited in the Patent Office to be restored. They are relics from Mount Vernon, bequeathed to me by my father, and consequently of great value and interest to his family.

Very respectfully,

MARY CUSTIS LEE.

His Excellency ANDREW JOHNSON,
President of the United States.

This letter was directed under cover to Captain May, and by him placed in the hands of Mr. Secretary Browning, who said in his testimony before a former committee of this house, that he delivered it to the President in full cabinet meeting, and, upon being read, every member of the cabinet agreed that the request of Mrs. Lee should be complied with and it was so ordered. Before the transfer was effected an inquiry was ordered by this House in the last Congress, and all further proceedings ceased.

The investigation by that committee elicited no facts inconsistent with what is above indicated.

These articles were the property of Mrs. Lee for her natural life, to be transmitted as heirlooms to her posterity. Mrs. Lee is the daughter and only child of George Washington Parke Custis, who was the grandson of Mrs. Martha Custis, afterward Martha Washington, wife of the "Father of his Country." She became possessed of Arlington House and estate under her father's will. That estate and these relics belonged to Mrs. Lee and not to her husband, General R. E. Lee. The federal government never attempted by any legal proceedings to divest her title. The title appears, therefore, to be still in her alone. In the judgment of your committee the *possession* ought to be transferred to her.

DEDUCTION FROM PAY OF MEMBERS FOR ABSENCE.

MARCH 16, 1870.—Ordered to lie on the table and be printed.

Mr. PETERS, from the Committee on the Judiciary, made the following

REPORT.

The Committee on the Judiciary, to whom was referred a letter addressed by the Sergeant-at-arms to the Speaker of the House, dated December 16, 1869, asking for a construction of the law of 1856, relating to the deduction from the pay of members on account of absences, have had the same under consideration, and beg leave to report:

That in the opinion of said committee, the act of 1856, which requires a per diem deduction from the pay of members on account of absences, being intended as a forfeiture to compel the attendance of members who were already sworn into their seats, has no application to such as were not admitted to seats, and that no deduction shall be made on that account; such a conclusion, however, not to be construed so as to allow compensation to the representatives of States admitted under the acts of reconstruction for any period of time prior to their election under such acts.

Dear Sir,

I have the honor to acknowledge the receipt of your letter of the 14th inst.

in relation to the proposed alterations in the City of London.

REPORT.

The Committee on the subject of the proposed alterations in the City of London, have the honor to report to the Mayor, dated January 18th, 1871, that they have considered the same, and have arrived at the following conclusions:

That in the opinion of the Committee, the proposed alterations in the City of London, are of a nature which would be of great benefit to the City, and would be of great advantage to the inhabitants thereof. The Committee are of opinion that the proposed alterations should be carried out, and that the City should be reformed in accordance with the same. The Committee are also of opinion that the proposed alterations should be carried out as soon as possible, and that the City should be reformed in accordance with the same.

HUNT vs. SHELDON.

MARCH 16, 1870.—Laid on the table and ordered to be printed.

Mr. STEVENSON, from the Committee of Elections, made the following

REPORT.

The Committee of Elections, to whom were referred the Louisiana contested election cases, under sundry resolutions of the House, submit the following report:

There being some general facts and principles which apply to all of the contested cases from the State of Louisiana, it is thought expedient and proper to present them briefly, as introductory to the separate reports of the several cases.

GENERAL REPORT.

The State of Louisiana comprises forty-eight parishes and five congressional districts. It is alleged on the one hand and denied on the other, that in several of the parishes of each district a valid election was prevented by intimidation and violence. The parishes thus in issue are, in the first district, Orleans, St. Bernard, St. Helena, and Washington. In the second district, Orleans and Jefferson. In the third district, St. Landry, St. Martin, St. Mary, Vermillion, and Lafayette. In the fourth district, Caddo, De Soto, Bossier, Sabine and Wynn. In the fifth district, Jackson, Franklin, Claiborne, Bienville, Union, Morehouse, Caldwell, and Catahoula.

Official records establish the following facts:

The number of electors registered in those parishes under the reconstruction acts in 1867 was 74,106; 31,413 white and 42,693 colored; being a majority of 11,280 of colored electors.

The republican vote, at the election in 1867 for the constitutional convention, was 38,335, being a majority of all the registered electors.

The democratic vote was 2,482, the mass of that party not voting because, under the reconstruction acts, a majority of registered electors was requisite to the calling of a convention.

At the next election, held in April, 1868, there were 30,895 votes cast in favor of the republican State, parish, legislative, and congressional ticket, against 26,553, cast for independent candidates, adopted by the democracy.

The next election was that in question, being the presidential and congressional election of 1868, when the number of republican votes cast in these parishes was 3,359, of which number eight parishes cast 3,339. Three parishes cast two republican votes each. Five parishes cast one republican vote each. Seven parishes cast no republican votes.

These facts, appearing from official records, present a startling case

and raise a question which demands an answer: What causes produced such results?

The answer is found in the volumes of the testimony which establishes these general facts:

After the spring election in 1868, when the democratic leaders began to reorganize and to form their plans for the presidential campaign, they found themselves masters of society and business, and in possession of the soil.

They resolved to use these advantages to ostracise white republicans and deprive them of support depending on custom; and to debar, or drive from their plantations and employment, all colored republicans adhering to their principles and party.

They held conventions, and passed resolutions expressing these purposes. Their committees and newspapers combined to advise and enforce them, and they were generally applied in threat or execution, where it was practicable without severe losses to the proprietors themselves, and in some cases even to their own detriment, as when a democratic miller refused to grind corn for a colored republican because of his politics.

The prejudices of race were rallied and excited to the verge of insanity. An oath bound, secret, quasi-military society was organized throughout the State, called "Knights of the White Camelia," or "K. W. C.," the members of which were sworn to obey their superior officers; to oppose by all means in their power the exercise of political authority by colored men; to support and defend each other, on call and to the death, and to keep secret the proceedings of the order.

Into this band were sworn nearly all the democrats of Louisiana.

They were armed and organized under a Grand Commander and subordinate officers, forming perfect connection from headquarters at the city of New Orleans with every "circle," in every election precinct in every parish in the State, so that the entire force of each precinct, parish, or district, or of the whole State, could be called into action and thrown into the field at the word of a single man, whose will was absolute. So numerous and formidable was this organization that in New Orleans alone it was understood to have an armed force of over fifteen thousand men, and the General Commanding the department, being himself a democrat, and well advised on the subject, pronounced it too powerful for his command to cope with, and advised the republican leaders to abandon the campaign.

It appears probable that out of the secret circles of this mammoth organization sprang the kindred but ranker growth of the "Ku-Klux Klan," or K. K. K., which, in fearful guise, scoured the disputed parishes, occasionally striking terrible blows against prominent republicans, and filling the freedmen with dismay.

While these coercive means were in operation, refuge was offered within the democratic party.

Democratic clubs were formed into which colored men were urgently invited to enter, with the promise that upon initiation they should receive "Protection Papers," certifying that the bearer was a "good democrat," entitled to confidence and protection as such, which would bring employment, lands, security and peace. These clubs and the circles of the K. W. C. were open to white republicans, willing, by abandonment of principle, to escape rigorous social and business ostracism, and the wrath of the Ku-Klux Klan. In order to exhibit the attractions of peace and quiet within the democratic party, in contrast with the hardships and dangers without, democratic barbecues were held, which all the

people were invited to attend and partake freely of the food and drink bountifully provided, and hear public questions discussed by speakers of both colors. The audiences, responding to these invitations, gathered promiscuously about the rostrum, where orators of both colors and all shades sat side by side, and spoke alternately from the same place to the same audience, and after the "feast of reason" the people mingled around the board, and enjoyed the hospitalities of the democratic party without discrimination on account of "race, color, or previous condition of servitude," in some instances active young democrats playing the part of waiters, and serving the colored people in preference to the whites. On these festive occasions all allusions to the "Knights of the White Camelia," and their plans and purposes relative to the disfranchisement of colored citizens, were carefully avoided, the colored orators being kept in profound ignorance of the existence of such an organization.

Thus were presented the alternatives of security and prosperity within the pale of the democratic party, or starvation and destruction without.

But so firmly were the colored men of Louisiana attached to the party of emancipation, liberty, and equal rights, that all these means, coercive and seductive, failed to separate them from the republican ranks.

When this failure became apparent, open violence and wholesale massacre began. The most serious riots occurred in the cities of New Orleans and Jefferson, and the parish of St. Bernard, in the first and second districts; in the parishes of St. Landry and St. Mary, in the third district; and in the parishes of Bossier and De Soto, in the fourth district. In these, and similar though minor outbreaks, including the operations of the Ku-Klux Klan, it is estimated by those best informed, no less than two thousand republicans were killed, wounded by gunshots, or otherwise seriously injured.

The sight and tidings of these things, the assembling of the mysterious omnipresent K. W. C., and the midnight marchings of the Ku-Klux Klan, with the knowledge that no punishment was anywhere inflicted nor even attempted for any of these thousands of outrages, and no effort made to prevent their recurrence, produced such a condition of excitement and apprehension among republicans of all classes in the disordered regions, as caused them generally to avoid the polls and shun publicity on the day of the election.

The republican witnesses testify that on the day of election they and the masses of their party really believed that any attempt to poll their party vote in those parishes would lead to riot and massacre more serious and extensive than those which had preceded, and many brave men, whose names are honored among the heroes of the late war, concur in this opinion, acknowledge that they feared to vote or to publicly express their political opinions, or canvass for their party, and state under oath that they would gladly have exchanged the perils surrounding them during those troubles for the dangers of the battle-field.

Before abandoning the contest, the republican leaders had made brave and persistent efforts to maintain and advance the principles of their party and promote its success, and had encountered trials such as would have shaken the firmest of men; and many intelligent and trusted colored leaders had suffered martyrdom with devotion and fortitude of which any race of men might well be proud.

Whether the republicans of these riotous parishes can be justified in having declined to contest the election under these circumstances is one of the questions to be determined by the House.

In the opinion of the committee the course pursued was not only justifiable, but prudent. It would have been gross imprudence to have imperilled the public peace and the lives of their followers by attempting to draw them to the polls in the face of their fierce opponents, flushed with so many recent bloody victories and unrestrained by any power or authority, civil or military, willing or able to control them.

If it be said that there might not have been any violence, the answer is that recent events had raised a reasonable apprehension of danger, sufficient in law to cause a man of ordinary prudence to so act as to avoid the probable danger.

It may be said that because the statutes of Louisiana provide that actual violence at the polls should void the election, therefore no election can be set aside for violence at any other time or place, however it may affect the minds or conduct of electors; and this may have been the view of the democratic leaders in causing or permitting cessation of violence immediately before the day of election, and in keeping the peace among themselves at the polls. They may have supposed that they could violate the spirit of the State statute without incurring the penalty of its letter. It is submitted that no such views of law should be allowed to prevail. Such a ruling would overturn established principles, and give license to lawlessness. The rule applicable is well expressed in the act of Congress known as the first reconstruction act, passed March 2, 1867, sec. 5, where it is provided as one of the essentials of a valid election that it shall appear "*that all the registered and qualified electors had an opportunity to vote freely and without restraint, fear, or the influence of fraud.*"

This act was passed with special reference to the circumstances surrounding the freedmen of the late rebellious States, and is well adapted to test the fairness and validity of such elections. It is declaratory of an established rule of contested election law, and is at present our only available means of securing fair and peaceable elections in the reconstructed States. It should be strictly and impartially enforced until we shall be prepared to protect the voter in the exercise of his rights, or to punish those who violate them; and it may be that experience will demonstrate that the best permanent practicable means of securing fair and free elections in the reconstructed States will be such an application of this great principle as will teach all parties that they have nothing to gain by intimidation and violence. It is proposed to apply this rule to the several disputed parishes of the districts of the State of Louisiana, and under its operation to reject the returns from those parishes, if any, in which it shall clearly appear, from the testimony, that the electors generally had not an opportunity to vote "*freely and without restraint, fear, or influence of fraud.*"

As to the remaining parishes in which it shall appear that the election was valid, it is proposed that the returns therefrom, when properly authenticated or proved, shall be counted, and the result in each district determined from such returns.

This proposition was indorsed by the House in the case of Hunt vs. Sheldon, on the prima facie, in which the Committee of Elections in their report said—

It is evident, from the testimony referred to the committee, that in the parishes of Orleans and Jefferson there was no valid election, and the question arises whether this should invalidate the election in the other parishes of the district, and set aside the entire returns.

In all the other parishes the election was quiet, and the vote was as full as that usually cast in loyal States; and it would seem unreasonable and unjust that the peaceable electors of the district should be denied the right of representation because their violent neighbors attempted and failed to deprive them of that right.

The better rule would seem to be that indicated by the legislature of Louisiana, in the resolution referred to the committee, to exclude the disorderly and count the peaceable parishes; thereby defeating the violent and protecting the peaceable and law-abiding citizens in the right of representation.

The House affirmed the report. This rule has been well settled by a long line of precedents, and is deemed unquestionable.

With these general statements of law and fact, applicable more or less to all the districts of the State, we proceed to examine each case referred for consideration.

CALEB S. HUNT *vs.* LIONEL A. SHELDON, SECOND DISTRICT, LOUISIANA.

Mr. Sheldon, the sitting member, was admitted to the seat by resolution of the House, passed April 8, 1869, which is in these words:

Resolved, That Lionel Allen Sheldon, claiming the right to represent the second congressional district of the State of Louisiana in the House of Representatives of the United States be admitted to a seat in this House, without prejudice to the right of any person to contest such seat according to law.

On April 7, 1869, the House had passed a resolution, of which the following is a copy:

Resolved, That each of the persons claiming seats in the forty-first Congress as representatives of the several congressional districts of the State of Louisiana, excepting such as have been, or before the close of the present session shall be, reported by the Committee of Elections to this House as unable to take the oath prescribed in the act entitled "An act to prescribe an oath of office and for other purposes," approved July 2, 1862, shall, on or before the 15th day of April, 1869, file with the Clerk of the House a statement of the grounds upon which he claims such seat, and a sub-committee shall be appointed by the Committee of Elections with power to administer oaths, take testimony, and send for persons and papers to investigate the facts connected with the late elections for representatives, in said several districts during the recess of Congress, at such times and places in the State of Louisiana as they may determine, and upon such investigation and upon the evidence heretofore lawfully taken in said respective cases, the Committee of Elections shall at the next session of Congress report to the House whether the elections in the said several districts were lawful, regular, and valid, and which of said persons, if any, were lawfully elected to represent said districts respectively in the forty-first Congress, and whether said claimants are able to take the oath of office prescribed in the act of July, 1862, with a full statement of facts in each case.

The sitting member claims that as the resolution admitting him to the seat was subsequent to that of April 7, 1869, under which we are now proceeding, the latter does not apply to his case, and he insists that his case is to be further considered, if at all, solely under the act regulating contested elections, by which it is provided that notice of contest shall be given within thirty days after the result of the election shall have been declared. Under this act the notice should have been given within thirty days from November 25, 1868, but no notice was given until January 30, 1869; consequently the notice was not sufficient to sustain a contest "according to law," unless the objection was waived, which does not appear, the contestee having made and maintained the objection at every stage of the case. The committee thought proper, notwithstanding this objection, and subject to protest, to proceed in the examination of witnesses in this case; and while upon a rigid construction of the resolutions of the House under the technical rules of law, it might be difficult to escape the conclusion claimed by the contestee, we submit the question without recommendation, and assume that the House in its discretion may enter into the consideration of the case upon its merits.

The second congressional district of Louisiana comprises the following parishes and parts of parishes: "All that portion of the parish of Orleans on the left bank of the Mississippi River above and west of Canal street, in the city of New Orleans, comprising the first, second, third

and tenth representatives districts of the parish of Orleans, and the parishes of Jefferson, St. Charles, St. John the Baptist, St. James, Lafourche, and Terrebonne."

By the official returns, as examined and certified according to law, it appears that Lionel Allen Sheldon received 5,108 votes, and Caleb S. Hunt 2,833 votes, as shown by the following official statement:

The following is a true statement by parishes of the number of votes cast for member of Congress in the second congresssional district, held November 3, 1868, as shown by the returns on file in the office of the secretary of state, together with the parishes rejected and reasons thereof:

	Forty-first Congress.	
	L. A. Sheldon.	Caleb S. Hunt.
Lafourche	1, 613	1, 799
St. Charles	1, 335	264
St. James	2, 160	770
	5, 108	2, 833

The following returns were rejected for the reasons stated in the official certificate:

	Forty-first Congress.	
	L. A. Sheldon.	Caleb S. Hunt
Orleans	125	11, 335
Terrebonne	1, 541	1, 297
St. John the Baptist	1, 278	452
Jefferson	662	2, 224
	3, 606	15, 5 08

PARISH OF ORLEANS.

The returns from that part of the parish of Orleans forming a part of the second congressional district were rejected for the reason that the returns were made by the boards of supervisors of registration appointed by authority of an act (No. 92) entitled "An act to facilitate the registry of voters under an act to create a board of registration to superintend the registration of the qualified voters of the State," approved September 7, 1868, said boards having no authority to perform any duties except that of registration, for which they were especially appointed.

JEFFERSON.

The returns from Jefferson Parish were thrown out for the reason that two separate returns were received, one signed by S. S. Henry, as chairman board of supervisors at Carrolton, and the other by J. A. Wagner, H. P. Philips, John Payn, chairman, and J. H. A. Roberts, it being impossible to tell which, if either, was the correct return.

TERREBONNE.

The returns from this parish were made up and forwarded to the secretary of state by the commissioners of election appointed for the various polls, the only thing in shape of a compilation being a statement showing the number of republican and democratic votes cast, signed by the supervisors.

ST. JOHN THE BAPTIST.

The returns from the parish being signed only by one of the members of the board of registration, and there being no witnesses' names signed thereto, was considered a violation of the 25th section of act No. 164, approved October 19, 1868, which requires the supervi-

ors of election to repair to the court-house, and, in the presence of at least two witnesses, to compile the return sent in by commissioners. Section 25 makes it the duty of the supervisors to forward triplicate returns to the secretary of state, and no one supervisor has the right.

Mr. Hunt and Mr. Menard were opposing candidates to fill the unexpired term of Mr. Mann, (fortieth Congress.) Mr. Hunt and Mr. Sheldon were opposing candidates for the forty-first Congress. The vote for Mr. Hunt was the same for both terms.

H. C. WARMOTH, *Governor of Louisiana.*

The reasons given appear sufficient in law, but the defects, having been cured by other testimony, save as to part of Orleans parish, these points become immaterial. No other issues being made, except as to the parishes of Orleans and Jefferson, the vote admitted to be valid is as follows:

Parishes.	Hunt.	Sheldon.
St. Charles.....	264	1,335
St. John Baptist.....	452	1,278
St. James.....	770	2,160
La Fourche.....	1,799	1,613
Terre Bonne.....	1,297	1,542
Total.....	4,582	7,928
		4,582
Majority for Sheldon.....		3,346

The sitting member alleges "that partisans and supporters of my competitor and of the democratic party in said five wards of New Orleans and in said cities of Jefferson and Carrollton and village of Gretna, organized themselves into armed bands, and by threats, violence, and murder, prevented my supporters and partisans from voting, and coerced, by the same means, many of my friends and supporters into voting for my competitor and the democratic ticket. That in said five wards of the city of New Orleans, and the said cities of Carrollton and Jefferson and in the village of Gretna, there existed before and at the time of the said election a complete state of anarchy and violence, there being at the time no civil or military power or authority able to protect life or property, or to secure the free and fair exercise of the elective franchise to the qualified electors of the places last above named." The contestant denies these allegations. The parishes of Orleans and Jefferson adjoin. The cities of New Orleans and Jefferson, though separate municipalities, are practically one city—a stranger would not know when passing from one to the other. This city is the commercial and political capital of the State—center and headquarters of both parties.

Here the democracy were thoroughly organized, not only by the ordinary committees, but by partisan clubs, regular, independent and fancy, to the number of seventy-eight clubs, and in addition to and comprehending all others was the secret society of the Knights of the White Camelia, which was understood to muster from fifteen thousand to twenty thousand armed men.

One of the independent democratic clubs called the Innocents, mustering about fifteen hundred men, principally Spaniards and Cicilians, among them the most desperate men in New Orleans, seems to have been to the city what the Ku-Klux Klan was to the country parishes, and was almost equally dreaded. The political excitement was intense, and as the campaign progressed the feeling increased, until on the night of October 24, 1868, a republican procession passing on Canal street, the principal thoroughfare of the city, was attacked with guns and pistols,

by democratic clubs, routed and driven from the streets with the loss of six colored men, killed. This riot inaugurated open violence, and was followed by similar occurrences. Anarchy prevailed for about one week; armed bands took possession of the city, drove the police from their beats, chased down and shot colored policemen, entered and sacked republican club-rooms and the houses of prominent men; shot colored men on sight; and finally gathered in force at police headquarters for the purpose of taking forcible possession, and overthrowing the civil authority, and were with difficulty dissuaded from doing so by their party leaders, upon the assurance that the republican authorities would abdicate in favor of democrats.

During this period of anarchy, which lasted unbroken for about one week, neither the civil nor the military authorities afforded any protection to republicans. The governor of the State had no militia at his command, the act of Congress forbidding the organization of State militia in the late rebellious States. The general commanding the department, when applied to by republicans for protection, said if they would remain at his headquarters he would give them the same protection he had for himself. The governor of the State appealed to the general commanding to use the national forces, and the general replied "that there was an armed organization in the city, the Knights of the White Camelia, fifteen thousand strong, and if they attempted to overthrow the civil government it would be impossible to prevent it; that he had not troops enough to protect the United States property in case of tumult." General Buchanan, second in command, declared "that the general commanding would be as much justified in withdrawing his troops as a general would be before an army of superior force."

During this period of unbridled violence about two hundred and forty republicans were killed and seriously wounded in the parishes of Orleans and Jefferson. Many leading men were compelled to leave the city, and others to conceal themselves, while the colored people were obliged to keep under cover, and when one appeared on the street he was hunted down by the Innocents and killed.

Becoming satisfied that they could not maintain their authority against such odds, the Metropolitan Police Board, at the request of the commanding general, appointed James B. Steedman, a prominent democratic politician, superintendent of police, thus virtually surrendering the police power into democratic hands; and the republican leaders advised the members of their party, and especially the colored men, not to attempt to vote unless they thought they could do so peaceably.

These proceedings produced a condition of comparative peace and order in the nature of a truce, and the general commanding expressed the opinion that if the colored electors would not attempt to vote, the peace might be maintained.

General A. L. Lee testifies that two or three days before the election he had an interview with the general commanding, and says:

When I said I didn't think the republicans would attempt to vote, that they thought it would be perfectly useless, he expressed his gratification in a very marked manner at that fact. He said that he had been in conversation with the leaders of the democratic party, and that they had made various pledges, and that with these he thought he should get over the election without any disturbance.

From this time until the day of election there was less disorder, but proscription was continued; threats were made; Ku-Klux handbills with skull and cross-bones were scattered through colored churches and about the city; registration papers and republican tickets were taken from colored men by force, and the prevailing condition of affairs was such as

to convince all prudent republicans that any effort on their part to revive their party and bring out its vote would be the signal for a renewal of the scenes of blood.

The republican leaders therefore publicly and privately advised the masses of their party not to attempt to vote unless they thought they could do so peaceably, and there was no attempt made by republicans generally to poll their vote. It is the opinion of the republican witnesses, then resident in the city, that this action was what preserved the peace, and that if any effort had been made to poll the colored vote it would have resulted most disastrously.

The same men who had swept the city, without resistance, for days and nights were still there unpunished, triumphant, and with unbroken spirit of lawlessness manifesting the same determined purpose; there was no more power to control them. They were quiet only because they had attained their object, and had no motive for action.

The result shows that their work had been thoroughly done.

The number of registered electors in the parishes of Orleans and Jefferson in 1867 was 34,766, of whom 18,697, a majority, were colored. The republican vote cast at that election in 1867, in those parishes, was 16,083, a large majority of votes cast. The regular republican vote of those parishes in April, 1868, was 17,106. The entire republican vote cast in those two parishes, in November, 1868, was 1,814, being a falling off, in about six months, of over 15,000 votes, upon a largely increased registration.

The comparison is equally striking if confined to the vote in Jefferson parish alone, or in that part of Orleans comprised within this congressional district. The republican vote in Jefferson in 1867 was 3,284; in April, 1868, 3,133; in November, 1868, 672; a decrease of nearly four-fifths. The testimony relative to the elections of 1867 and April, 1868, does not show the vote of the wards of Orleans separately, but it is understood that the population of the parish was about equally divided between the first and second congressional districts. The registered vote of the part of the parish within the second district in November, 1868, was 21,314, more than half the registered vote of the parish. The republican vote cast at the November election, 1868, was 124, probably not two per cent. of the republican vote.

It seems clear that there was no valid election in either of these two parishes, and that the returns from each of them should be rejected, and that the result should be determined from the returns of the other parishes of the district.

The returns from the peaceable parishes show that the contestee received a majority of 3,346 votes.

We therefore recommend the adoption of the following resolutions:

Resolved, That Caleb S. Hunt is not entitled to a seat as a representative in the forty-first Congress from the second district of Louisiana.

Resolved, That Lionel A. Sheldon is entitled to his seat as a representative in the forty-first Congress from the second district of the State of Louisiana.

HUNT vs. SHELDON.

Mr. KERR, a minority of the sub-committee of the Committee of Elections, to whom was referred the case of C. S. Hunt against L. A. Sheldon, from the second district of Louisiana, submitted the following minority

REPORT.

The undersigned, utterly unable to approve the conclusions of the majority in this case, begs leave to present the following report :

This contest presents no essentially new features. Mr. Hunt claims the seat in virtue of the majority vote received by him, as shown by the returns of the election verified and put in evidence, (part 2 of the testimony, pp. 589 to 604, and 658, 660, 662,) as follows :

Statement showing the number of votes cast at the election for C. S. Hunt and L. A. Sheldon, respectively, for the forty-first Congress.

Parish.	Hunt.	Sheldon.
St. Charles.....	264	1, 338
St. John Baptist.....	452	1, 278
St. James.....	770	2, 160
La Fourche.....	1, 799	1, 613
Terre Bonne.....	1, 297	1, 331
Jefferson.....	2, 224	662
Orleans, (1st, 2d, 3d, 10th, and 11th wards of New Orleans)	12, 534	135
Total.....	19, 340	8, 514

Showing a majority for Mr. Hunt of ten thousand eight hundred and twenty-six votes.

Mr. Hunt also claims that the election was lawfully held, and freely, fairly, and peacefully conducted throughout, and it has been, not only abundantly so proved, but it is also admitted by contestee.

The foregoing figures, being taken directly from the returns which have been put in evidence, cannot truthfully be disputed, and it is not understood that they are disputed, although it is claimed by contestee, and the majority of the committee have so concluded, that the returns from the parish of Jefferson, and the five wards of the city of New Orleans should be wholly rejected for the reasons following:

Parish of Jefferson. Because informal and irregular.

Five wards of New Orleans. Because they were made by the supervisors of registration, who were not authorized by law to make the returns.

And for the further reason that in said parish and wards there existed, before and at the time of the election, a general state of anarchy and violence, there being no civil or military power or authority able to protect life or property, or to secure the free and fair exercise of the elective franchise.

If the said returns be rejected and those only from the other five parishes of the district be computed, the votes will then stand. For Mr. Hunt, 4,582; for Sheldon, 7,717; showing a majority for Sheldon of 3,135 votes.

It is immaterial to consider the question of rejection in respect to the parish of Jefferson; for if the votes from that parish be computed with the votes from the said five parishes, the result would not be changed, except in a reduction of the majority for Sheldon to 1,573 votes. Upon the votes returned from the five wards of the city of New Orleans, then, depends the result of the election in the entire district.

The reason assigned for the rejection of the returns from the five wards of New Orleans is that the supervisors of registration in the parish of Orleans are not authorized to make returns of the election. This objection is made directly in the face of the law, either in misapprehension or disregard thereof. It is expressly made the duty of the supervisors of registration in each parish to make returns of the election to the secretary of state. Sec. 25, act No. 164, relative to elections, reads as follows:

SECTION 25. *Be it further enacted*, That it shall be the duty of said supervisors of registration in each parish to make out triplicate returns, to forward one of them immediately by mail to the secretary of state, and another to the secretary of state by the next most speedy mode of conveyance, and to deposit the third in the office of the clerk of the district court, and in the city of New Orleans, in the office of the clerk of the first district court; and for their willful failure or neglect herein, such supervisors shall, upon conviction before any court of competent jurisdiction, be fined in a sum not exceeding five hundred dollars, at the discretion of the court.

Besides the clear language of the act, we have the official opinion of the attorney general of the State that the supervisors of the parish of Orleans had authority to make the returns of election in question. The opinion is in evidence, Book 2, p. 571, and concludes as follows:

I am, therefore, of the opinion that the boards of supervisors of election, as constituted under the law throughout the State, as well in New Orleans as other parishes of the State, are the proper returning officers.

I am yours, very respectfully,

SIMEON BELDEN,
Attorney General.

Hon. G. E. BOVEE,
Secretary of State, State of Louisiana, New Orleans.

This same question arose in the contest between Hunt and Menard to fill a vacancy in this (second) district in the fortieth Congress. In that case Menard occupied the precise relative position on the merits as Sheldon does in the present case: the election was held at the same time; the action of the board of State canvassers was the same precisely in both cases; Menard received the certificate to fill the vacancy, and Sheldon received it for the forty-first Congress; Hunt contesting both. Upon this question of returning officers for parish of Orleans, as it arose in the case of Hunt *vs.* Menard, the majority of the Committee of Elections reported as follows:

Extract from report No. 27.

The reason given in the certified statement for the rejection of the vote of the parish of Orleans, viz: "that the returns were made by the boards of supervisors of registrations," shows that in this respect *the returns were made as required by law, and that the objection is invalid.*

By the provisions of section 25 of act No. 164, Laws of Louisiana, 1868, page 223, it is expressly made the duty of said supervisors of registration in each parish to make out and forward said returns to the secretary of state.

The foregoing is deemed sufficient to show satisfactorily that the votes cast in the parish of Orleans were legally returned to the secretary of state, and that the returns were unlawfully and wrongfully rejected by

the board of State canvassers, and that the votes so returned from the parish of Orleans are entitled to be, and should be, computed to ascertain the result of the election in the district.

In respect to the further reason assigned for the rejection of said returns, viz: the existence of anarchy and violence before and at the time of the election, all the witnesses examined by the committee in respect to the condition of the public peace in the city of New Orleans uniformly testify that at the time of the election, and for several days prior thereto, there was no disturbance of the public peace; that the election was conducted throughout in peace and quiet, and without the slightest interruption; and that every elector entitled to vote, and who offered or sought to cast his vote, was permitted to do so without molestation; and Mr. Sheldon, the contestee, is on the record himself, distinctly admitting that there was no disturbance of the public peace on the day of the election. (See part 1 of the testimony, page 12.) With this fact so fully established, what more can possibly be required to constitute a true and valid election? How, without manifest wrong, can the legal return of an election, so held in perfect freedom to voters and strict regard for the public peace, be lawfully or consistently rejected? It is safe to say that, upon the law, the facts, and the decisions, the election in said five wards was a true and valid election, and the returns thereof legally made cannot justifiably be rejected.

The anarchy, violence, and public disturbance in the city of New Orleans, set up by contestee and the majority of the committee as a proper ground for rejecting the returns of the election in the said five wards thereof, appears, by the testimony of the witnesses testifying on that point, to have occurred some time prior to the election, and therefore could not necessarily in any manner interrupt the proceedings at the election, nor prevent the ascertainment of the result.

The rule of law is well settled upon the question of riot and disturbance of the public peace at elections, and has governed the decisions in all analogous cases in courts and legislative bodies, both in England and this country. It is laid down in all the leading authorities on the law of elections, under appropriate titles, viz: Hayward on County Elections; Wordsworth's Law and Practice of Elections; Curtis's Law and Practice of Elections; Rowe on Elections; Sheppard on Elections; 4 Selden; Cooley on Const. Limit.; 1 Peckwell, &c., and is in substance, *that to invalidate or make void an election on the ground of riot and intimidation, it must appear that the proceedings at the election were interrupted and the ascertainment of the result prevented thereby.* This rule furnishes the ground of the decisions by the Committee of Elections in the several cases of *Harrison vs. Davis*, Contested Cases, vol. 2, p. 341; *Preston vs. Harris*, vol. 2, p. 346; *Clements, of Tennessee*, vol. 2, p. 366; *Bruce vs. Loan*, vol. 2, p. 519, Minority Report adopted by the House. In the first-mentioned case, the committee say:

We have now to consider the question whether the election is void by reason of riot and intimidation. The specification is, *that in all the wards bands of men conspired to exclude and obstruct legal voters who intended to vote for the contestant, and did, in fact, assemble at and near the voting places armed, and by threats intimidated, and by violence obstructed and drove away thousands of legal voters, and deterred many from approaching the polls.*

That statement, considered as an allegation of facts, which, if proved, avoid the election in point of law, is wholly insufficient. It nowhere makes the formal allegation that the law requires; either that *the election was arrested and broken up in every ward, or that so many individuals were excluded by violence and intimidation as would, if allowed to vote, have given the contestant the majority.* Either of those grounds, if stated and proved would have been in law decisive of the case; but neither is stated in the specification, and neither is proved by the evidence.

The case attempted to be made is one wholly different from either, and wholly un-

known in the annals of election law. It assumes that an election is necessarily void at which two thousand voters are prevented by violence or threats of violence from voting, though the election was never arrested, and though twenty thousand may have been cast, and all for one candidate, *which is absurd*.

It is therefore apparent that there is no case stated to avoid either the whole election or any part of it. It is not stated that the combination anywhere arrested the election, nor anywhere made such a display of force as ought to have intimidated men of ordinary firmness.

In the case of *Preston vs. Harris*, the committee express similar views, and say :

The committee refer here to the law upon the subject of election riots. The only cases in which elections have been set aside for this cause are when there was riot at the polls, or such tumult as interfered with the election, and prevented an ascertainment of the result.

Now it is very clear, from the evidence, that no such condition of things existed in the case under consideration. At every one of the polling places in the district of the sitting member, the election was uninterrupted ; the votes were all quietly canvassed ; the judges signed the returns ; they were transmitted, as the law requires, to the governor of the State ; the governor made proclamation of the result, and transmitted to the sitting member a certificate of his due election.

In the case of *Clements, of Tennessee*, the committee say :

The committee are also satisfied that on the day of election there was no armed rebel force present in this district preventing or restraining the voters from the exercise of the elective franchise ; and that though a violent and bitter public sentiment existed, calculated to overawe and intimidate, yet the rebel forces had not up to that time so taken possession of the district as to prevent such voters as chose to do so from depositing their votes for a representative in this Congress.

Notwithstanding this state of things, the committee in their report, which was approved by the House, came to the conclusion "that on the day of election no armed force prevented *any considerable number of voters*, in any part of said district, from going to the polls," and thereupon they sustained the validity of the election.

In the case of *Bruce vs. Loan*, the minority of the committee, whose report was adopted by the House, say :

The undersigned trust that the presence, in a few of the precincts in this seventh district of Missouri, of a few loyal State troops, acting under the orders of the State authorities, in guarding the polls, will not be considered more dangerous to the free exercise of the elective franchise than was in Tennessee the presence of rebels in arms.

It will be observed that these several cases were founded on allegations of riot, violence, public disorder, intimidation and interference with voters *on the day of election and at the polls*, and it was sought in each case to void the election in whole or in part ; but the committee and the House, finding that the proceedings at the election were not interrupted, and the result had been duly ascertained, declared the election in each case valid, thus sustaining the rule aforesaid ; and yet, with these former decisions by the committee and the House before them, and directly in point of the case now under consideration, the majority of the committee report that, because of riot and disturbance of the public peace, not on the day of election and at the polls, but several days before the election, during the political campaign in the city of New Orleans, the election in the five wards aforesaid should be considered void, and that too, not because the proceedings at the election were interrupted, or the result not ascertainable, but because a large number of republican electors *pretended* that they could not vote with personal safety, notwithstanding on the day of the election no violence, threats, nor intimidation operated to give even color to such pretense.

Another rule equally well established is, that whenever it is sought to set aside an election in part on the ground of illegal votes or riot and

intimidation, it must be made to appear that, if such illegal votes had not been received or if such riot and intimidation had not prevailed, the result of the election would have been different in the whole district; for otherwise it would be wholly immaterial whether the election was void or not in part. On this point reference is again made to the authorities before cited. This rule is self-evident, and has always heretofore been the guide of the Committee of Elections to its conclusions and governed the House in its decisions, and is directly in point of the contest now under consideration.

Mr. Hunt and Mr. Sheldon were candidates for the forty-first Congress in the second district of Louisiana; the election was lawfully held, and without fraud, and peaceably conducted throughout; the returns of the votes cast in the whole district show a large majority for Mr. Hunt; nevertheless Mr. Sheldon, by the wrongful act of the governor, obtains the certificate, and is admitted to the seat on *prima facie* right, and Mr. Hunt contests his right on the merits. The parties therefore stand in this contest thus: Mr. Hunt, the contestant, alleging and proving that of the votes cast in the whole district he has a large majority over Mr. Sheldon, and Mr. Sheldon, the sitting member, alleging that the election is void in part by reason of riot and violence in the parish of Jefferson and in five wards of New Orleans, prior to the day of election, which intimidated and deterred a large number of electors in said parish and wards from voting, and whose votes, if they had been cast, would have changed the result, and Sheldon would have had the majority instead of Hunt.

The following statement will show, however, that the result in the district would not have been different from what the returns made it; and that Mr. Sheldon would not have had a majority in the district if every registered elector in said parish and wards who did not vote had voted, and all had voted for him, but that Mr. Hunt would still have had a majority in the district; and therefore it is immaterial whether the election in said parish and wards was void or not. It is proper, however, first to explain a discrepancy between Mr. Hunt's brief and this report of the undersigned in respect to the number of votes received by Mr. Sheldon in the parish of Terre Bonne; Mr. Hunt, on page 2 of his brief, making the number 1,542, while in the statement of the undersigned the number is set down as 1,331.

Since the making up of Mr. Hunt's brief an error of 211 votes has been discovered in the number set down as having been received by Mr. Sheldon in the parish of Terre Bonne for member of the forty-first Congress, viz: the 129 votes cast at poll 1, (see return in evidence, part 2, p. 601,) and the 82 votes cast at poll 8, (see return in evidence, part 2, p. 602,) were cast for Mr. Sheldon to fill a vacancy in fortieth Congress, and not for member of the forty-first Congress; and the said 211 votes being deducted from 1,542, as put down in Mr. Hunt's brief, make the true number of votes received by Mr. Sheldon in parish of Terre Bonne for member of the forty-first Congress 1,331, as stated by the undersigned. And now, to show that in no event of the election in the parish of Jefferson and the five wards of the city of New Orleans would Mr. Sheldon have received a majority of the votes cast in the district for member of the forty-first Congress, but that the result in the district would still be, as shown by the returns of the election, a majority for Mr. Hunt, I confidently invite attention to the following statement:

Total number (in evidence) of registered electors in the parish of Jefferson and the five wards of New Orleans wherein alone intimidation is alleged to have prevailed.....	26, 313
Deduct total number (in evidence) of votes cast in said parish and wards, viz, Hunt 14,758, Sheldon 797.....	15, 555

And we have, as the number of registered electors not voting by reason of death, sickness, absence, business, advice, indifference, and intimidation, and all of whom, if voting, let it be assumed, would have voted for Mr. Sheldon..... 10, 758

The following summing up will then show the result in the district :

	Hunt.	Sheldon.
In the five parishes of St. Charles, St. John Baptist, St. James, La Fourche, and Terre Bonne, in which it is conceded there was a fair election, the votes were.....	4, 582	7, 717
In the parish of Jefferson and the five wards of New Orleans, where it is alleged intimidation prevailed.....	14, 758	797
Number not voting in said parish and wards, as before shown, all conceded to Mr. Sheldon.....		10, 758
Total.....	19, 340	19, 272

Showing, notwithstanding the concession to Mr. Sheldon of the entire number of non-voters in the parish of Jefferson and the five wards of New Orleans, that Mr. Hunt still would have a majority in the district. Thus it is conclusively shown that the electors in the parish of Jefferson and the five wards of New Orleans, who it is alleged were prevented from voting, do not constitute a number sufficient, if they had voted, to change the result of the election in the district as shown by the returns thereof, and consequently under the rule aforesaid and decisions of the House, it is impossible in fact, and would be grossly unjust in law to the 15,555 legal electors who did vote in the parish of Jefferson and the five wards of New Orleans (more than half of the entire number voting in the whole district) to deprive them of a voice in the selection of their representative in this House.

If we go to the figures involved in this contest, it will be seen that the number of registered electors in the whole district is 39,860, and the number of said electors who voted at the election was 27,854, seventy per cent. of the registry; and further, that the number of registered electors in the parish of Jefferson and the five wards of New Orleans was 26,313, very nearly two-thirds of the registry of the whole district, and the number of said registered electors in the parish of Jefferson and the five wards of New Orleans who voted was 15,555, about sixty per cent. of the registry, and largely exceeding the number of votes cast in the remainder of the district.

Now what will these figures prove in connection with the proposed voidance of the election in the parish of Jefferson and the five wards of New Orleans? They will prove (if to keep Mr. Sheldon in the seat, for which he received only 8,514 votes out of 27,854 votes cast at the election, the House shall adopt the proposition of the majority of the committee and avoid the election in the said parish and wards) that 15,555 of the legal electors in said parish and wards will be denied their elective right because 12,299 other electors of said parish and wards did not vote; they will prove that only 13,547 electors out of a registry of 39,860 electors in the district were permitted to take part or have a voice in the

selection of a representative for the district in this House ; and they will prove that a minority of the votes legally cast at an election is, in the judgment of the House, competent to elect a representative for the majority. Yes, all these monstrous deviations from well-settled rules of law, uniform precedents, and republican government, will be clearly shown by the figures, to follow the adoption of the proposition of the majority of the committee.

But the testimony, fairly and judicially considered, fails to justify the rejection of the vote of the parish of Jefferson. There were some disturbances in that parish prior to the election and during the political canvass, but they were not of an extraordinary character either in extent or incidents. A few persons were injured, and a few outrages were committed of a violent nature. The evidence, however, shows that on the day of the election, and for several days before, order and peace prevailed, and that the election was legally and peacefully conducted, and the returns so far regularly made that they cannot be legally rejected for informality, and that a great part of the disorder and insubordination which did exist in that parish during that period arose out of conflicts between the authorities thereof and the governor of the State and other officers claiming the right to exercise certain jurisdiction therein, and were not distinctly or chiefly political in their character.

In respect to the legal technicality urged by Mr. Sheldon and presented by the majority of the committee as one of the grounds of his right to the seat, viz., that as he was admitted to the seat subject only to a contest according to law, no person has a right to contest the seat, because he has never received any notice of contest within the time required by the law of 1851. The answer to such special pleading is, that Mr. Hunt's right to contest the seat does not now depend upon technical conformity to the law of 1851. The House resolution of 7th April not only authorizes it, but from the moment of its passage became the law and the rule under which the contest should be tried, and Mr. Hunt has complied with its requirements, and therefore is contesting according to law. The House has fallen back upon its constitutional prerogative of judging of the election and qualification of its own members, and has taken the contest out of the hands of the parties, and commenced the case *de novo*. Mr. Sheldon has admitted the new status of the contest by filing his statement of the grounds of his claim, in obedience to the requirements of the resolution. Under that resolution he was admitted on *prima facie* right to take his seat, subject to any contest against him according to law ; and Mr. Hunt, having conformed to the requirements of the House resolution, is now contesting his right to the seat in accordance with law.

I am prevented by lack of time from further considering in this report the general condition of society in the district during the canvass that preceded the election, and I therefore defer further reference thereto until the case comes up for consideration in the House.

In conclusion, I offer the following resolutions as substitutes for those of the majority :

Resolved, That Lionel A. Sheldon is not entitled to a seat as a representative in the forty-first Congress from the second district of Louisiana.

Resolved, That Caleb S. Hunt is entitled to a seat in this House as a representative from the second district of the State of Louisiana.

M. C. KERR.

R. R. BUTLER.

MARCH 16, 1870.—Ordered to be printed.

Mr. STOUGHTON, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, who were authorized, by the resolutions of the House of Representatives of the 4th day of February, 1870, and March 1st, 1870, to inquire into the alleged sale of appointments to the Military and Naval academies by members of this Congress, respectfully submit the following report :

The committee have taken the testimony of a number of witnesses in the case of Hon. Roderick R. Butler, a member of this house from the first district of Tennessee, which testimony, together with the statement of Mr. Butler in his own defense, is herewith submitted.

The committee have carefully considered the evidence, and, although there is some apparent conflict, have arrived at the following conclusions :

1st. That on the 27th day of February, 1869, the said Roderick R. Butler recommended the appointment of Augustus C. Tyler, son of General Daniel Tyler, late of the United States Army, as a cadet at West Point Military Academy.

2d. That said Augustus C. Tyler was not a resident of the first congressional district of Tennessee.

3d. That after said appointment was made an agent or attorney of General Tyler gave to Mr. Butler the sum of \$900, which said Butler received with the avowed intention of using the same for political purposes in the State of Tennessee.

The committee are of the opinion that the conduct of the said Roderick R. Butler, in appointing a non-resident of his district, and in subsequently accepting money from General Tyler, deserves the condemnation of this house.

The undersigned members of the committee recommend the adoption of the following resolution, viz :

Resolved, That this house declares its condemnation of the action of Hon. Roderick R. Butler, a representative from the first district of Tennessee, in nominating Augustus C. Tyler, who was not an actual resident of his district, as a cadet at the Military Academy at West Point, and in subsequently receiving money from the father of said cadet for political purposes in Tennessee, as an unauthorized and dangerous practice.

WM. L. STOUGHTON.
JAS. S. NEGLEY.
JASPER PACKARD.
J. F. ASPER.

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WM. L. STOUGHTON.
JAS. S. NEGLEY.
JASPER PACKARD.
J. F. ASPER.

The undersigned members of the committee recommend the adoption of the following resolution, viz:

Resolved, That Roderick R. Butler, a representative in Congress from the first congressional district of Tennessee, be, and he is hereby, expelled from his seat as a member of this house.

JOHN A. LOGAN.

AMASA COBB.

GEORGE W. MORGAN.

H. W. SLOCUM.

Copy of nomination of Augustus C. Tyler.

WASHINGTON, D. C., February 27, 1869.

I nominate Augustus C. Tyler, of Taylorsville, in the county of Johnson, and State of Tennessee, as a suitable person to fill the cadet vacancy in the first congressional district of that State. His age is seventeen years and one month.

Very respectfully,

R. R. BUTLER.

THE SECRETARY OF WAR.

Please send all communications for him, relative to this appointment, to my care, House of Representatives.

R. R. BUTLER.

WASHINGTON, February 17, 1870.

A. SCHOEPFE sworn and examined.

To the CHAIRMAN:

I am forty-nine years old; my residence is Washington; I am principal examiner in the Patent Office. I was connected with the procuring of a cadetship to West Point for the son of General Tyler; the general was an intimate friend of mine, and wrote to me to know if I could not do something in behalf of his son toward getting him a cadetship; I tried for several months without success; then I met General Este and asked him if he had any friends here in Congress through whom the appointment could be obtained. He looked about, and by and by told me that Mr. Butler, of Tennessee, had an appointment which could be obtained for some worthy young man, as there was no applicant from his own district eligible to it. I didn't see Mr. Butler; never saw him till four or five months after the appointment was made. Well, the young man went to West Point and was rejected just on a single, insignificant question; that was made the pretext for his rejection, that was all; the real reason was, that he had been for so short a time a resident of Tennessee. General Tyler was very much embarrassed and mortified, and again asked me to interfere in his behalf. I procured the assistance of other friends of General Tyler, and we obtained from the President an order that the young man be re-examined; he was re-examined, and this time was admitted.

I do not myself know anything about the payment of any money to Mr. Butler; General Tyler had told me that he was willing to do anything in his power, or go to any expense, to get his son an appointment; there was money paid, however, to get the appointment; General Tyler gave me the money, and I gave it to General Este; the amount I paid to General Este was fifteen hundred dollars; I took no money for my own services; I did all I did out of anxiety to serve an old friend; I understood the money was to go to Tennessee, to be used for election purposes—to support some newspapers that were in a needy and precarious condition; I do not know why he was to do this, whether from love for the party or for what reason; I never spoke with him upon the subject, but I understood this from General Este. General Tyler's understanding was that the money he furnished me was to be used in obtaining the appointment for his son. I do not know that he knew beforehand exactly in what way it was to be used; but he said to me, in general terms, he was willing to do anything he possibly could to get his son appointed; I wrote to him it could not be done unless he furnished this money; I once wrote to him that \$1,100 would be sufficient; but I found out afterward it would cost \$1,500, and I wrote and told him so; I paid the money to General Este because he had secured the appointment of General Tyler's son to a cadetship. I understood beforehand that if the appointment could be procured the means would be forthcoming.

NOTE.—Witness afterward appeared and stated that he desired to correct his testimony; that the amount he received and paid to General Este was \$2,300 instead of \$1,500.

WASHINGTON, February 21, 1870.

DANIEL TYLER sworn and examined.

By the CHAIRMAN:

Question. State your age, residence, and occupation.—Answer. I am 71 years old. Since the commencement of the war I have had no residence; I have been in Florida, South Carolina, and other States. I am boarding from hotel to hotel, spending my Summers at the North and my Winters at the South. I pay taxes in Connecticut, New Jersey, Pennsylvania, and New York. I have had a residence in Connecticut until the war commenced. After the war was over I bought a place in New Jersey, and lived there until about two years ago; since then I have been a traveler.

Q. What is your occupation?—A. I was an engineer for many years. I graduated at West Point in 1819. I was for quite a number of years in the army—until 1835.

Q. Are you connected now with the army?—A. I am not; I was connected with the army from the beginning of the war until near the close of it.

Q. Were you born in the United States?—A. Yes; I was born in Connecticut. The last vote that I gave was in New Jersey. That was at the last election of Mr. Lincoln.

Q. It is in evidence here that your son was appointed to West Point by Mr. Butler, of Tennessee, and it is further in evidence that you paid an amount of money for that appointment; I wish you to state if that is true, and if so, how much money you did pay and to whom you paid it.—A. The amount paid, I think, was in the neighborhood of \$2,000. I should rather think it was under that. It was in a draft on New York. The money was given to General Schoepfe, a friend of mine here, and that was the last I ever saw of it.

Q. What is your son's name?—A. Augustus C. Tyler.

Q. Was he appointed?—A. Yes; and he is at West Point now.

Q. Are you acquainted with Mr. Butler?—A. I did not know him; I would not know him now if I were to see him.

Q. State how you came to pay this money to General Schoepfe.—A. The circumstances were these: I had the promise of a cadet appointment at large for my son from the last President of the United States. I came on here expecting to receive that appointment, but at last it was denied. There were some pledges that had been forgotten, and that were made before the promise to me, and probably to persons that had more claims than I had. At all events, I did not succeed in getting the warrant. My son had been expecting to go to West Point. General Schoepfe, an old friend of mine, who had served with me in the army, and who had been trying to get the appointment for my son through the President and Mr. Cooper, his private secretary, (for we both knew the President personally,) said to me, "I do not think you need despair; I think you can get the appointment here." I asked how, and he mentioned the means.

Q. What were they?—A. By paying money. He said that these appointments were offered here for money, and that he thought he could get one. On consulting with some of my friends who I thought were capable of judging, they said that the thing was not uncommon, and I concluded to suffer General Schoepfe to get the appointment in that way.

Q. What friends did you consult with?—A. I talked with a number of my army friends.

Q. Tell us their names.—A. General Upton, I think, was one. We talked it over.

Q. Did you talk with anybody in the War Department?—A. Yes; I talked with the Secretary of War—General Schofield.

Q. What did he advise you to do?—A. He did not advise me.

Q. What did he say?—A. He acknowledged that there were a good many irregularities going on in the way of making these appointments.

Q. Did you tell him what the proposition was?—A. No, sir; I only supposed a case.

Q. What case did you suppose?—A. I supposed the case of a young man not living in the district. I did not suppose the case of giving any money for an appointment.

Q. Did you talk with anybody else there?—A. I do not think I did at the War Department.

By Mr. ASPER:

Q. From what source did you get the information that these appointments were generally sold?—A. I was told so four years ago by the professor of a collegiate institute in New York. He told me that he had bought a warrant five years before. It is a thing that has been known by every officer connected with the army for years.

Q. That appointments could be purchased?—A. That they could be got out of the districts.

By the CHAIRMAN:

Q. What did you mean by saying that this thing was known to officers of the army?—A. I mean that the military people connected with the government have known that this thing has been going on.

Q. Did you know of any such case yourself?—A. Not within my own knowledge; merely from rumor.

By Mr. HOGG:

Q. Did that professor in New York state to you the name of the district from which he had bought an appointment?—A. He did not. It was a mere observation of his made in connection with putting my boy into his school.

By the CHAIRMAN:

Q. Do you know what district your boy was nominated from?—A. A district in Middle Tennessee. I think it was the second or the fourth congressional district. The boy went out to Tennessee to obtain a residence there; and if it had been necessary, I should have gone there myself six months before.

By Mr. ASPER:

Q. Did you talk with any person about the War Department, other than the Secretary of War, in reference to the matter?—A. I do not think I did.

Q. Did you talk with General Schoepfe about the business?—A. Oh, yes; I talked with him about it.

Q. Did you converse with him in regard to what was necessary to be done?—A. Yes.

Q. And you gave him the full authority to negotiate for you?—A. Yes.

By Mr. WITCHER:

Q. When you speak of officers of the army being aware of the fact, do you mean any particular officers?—A. No; I mean that it was a general understanding in the army that these appointments are given in that way.

By Mr. ASPER:

Q. Were they not given as a matter of favor toward army officers themselves, to get the sons of favorite officers in the academy?—A. I do not know how that may be. I suppose that some personal consideration operated in particular cases; but I do not think that the officers of the army, or the professors at West Point, are very much in favor of it. My son was rejected at the examination for grammar. They asked him, when he went there, what district he came from, from where he was appointed, and where he was born. He told all the facts—that he was born in Connecticut, and was appointed from Tennessee, and that he had been in the district only three days. He stated that to the board of academic staff. After the boy had been rejected the President ordered a re-examination of him, and he then passed.

By the CHAIRMAN:

Q. General Grant had no knowledge of the transaction when he ordered the re-examination?—A. He knew that my son was appointed from that district in Tennessee.

Q. But he had no knowledge of the manner of his appointment?—A. Oh, no; I presume not.

By Mr. PACKARD:

Q. In alluding to this mode of appointing, did you mean appointments for money, or irregularities in appointing boys from other districts?—A. I mean irregularities in appointing boys from other districts.

By the CHAIRMAN:

Q. Be as definite as possible about the amount that you paid. The amount as stated here by General Schoepfe and by yourself differs.—A. It was in the neighborhood of \$2,000; but whether above or below that amount I cannot tell. It did not vary far from \$2,000.

Q. State whether it was paid before or after the appointment was made.—A. It was not paid until after the appointment was in General Schoepfe's hand. He had the draft, I think, the day before, but substantially it was not intended to be paid until the appointment was made. There was some talk about service in the political campaign, and all that kind of thing, which I had nothing to do with.

CHARLESTON, March 5, 1870.

I regret I had not seen Mr. Butler's testimony before I left Washington, as I think he is mistaken in connecting General Schofield, as he does, with my son's appointment at West Point.

I never supposed General Schofield to have solicited the nomination, nor did I ever know or believe he ever expressed to Mr. Butler, or any one else, any desire or anxiety to have the nomination made, although Mr. Butler's testimony, as published, looks as if this was the fact, as he understands it. So far as I know, my son's name was never mentioned to General Schofield; and when I stated the case as I did, General Scho-

field evidently understood what I wanted to know, but not for whose benefit I wanted the information, and he had no information from me by which he could properly connect my son's name with a cadet's appointment. The whole case is as follows, viz:

After the appointment of my son was signed, and in the hands of my friend, General Schoepfe, and before any payment was made, I called at General Schofield's house, and apologized for calling there by stating that it was a personal matter, and I then went on and supposed a case similar to that of my son, but giving no name, and the general, evidently understanding the matter, replied: "Oh, you want to know if you can colonize a cadet?" and I answered, "Yes, general; that is exactly what I want to know." General Schofield then went on to say that after the commencement of the rebellion the vacancies at West Point from the rebel States had been filled from the loyal States, and that continuing this practice since the termination of the rebellion, appointments had been made for the reconstructed States contrary to the letter of the law, and that these irregularities had been acquiesced in, and that under these circumstances, the appointment itself made on the nomination of a member of Congress, who was presumed to know the law, was *prima facie* evidence of its correctness, and he did not see how the academic staff, or the inspector of the academy, could go behind it, and question its validity. This was the substance of my conversation with General Schofield, and no reference to purchase, or any extra inducement was referred to, in order to secure the nomination. If General Schofield expressed to Mr. Butler, or any one else, a desire that my son should be nominated for Mr. Butler's district, which I very much doubt, I can only attribute it to his desire to gratify an old fellow-graduate, who left the Military Academy before General Schofield was born.

I communicate the above in justice to General Schofield, and have, at the request of Mr. Butler, communicated very nearly the same to him, and I desire this testimony may be used in order that justice may be awarded to all parties interested in the transaction.

With great respect, your obedient servant,

DAN. TYLER.

Major General LOGAN,

Chairman Military Committee, House of Representatives, Washington.

Personally appeared before me Daniel Tyler, who makes oath that the within statement is just and true, according to his just belief.

E. J. DAWSON, N. P. C. C.

GEORGE P. ESTE sworn and examined.

By the CHAIRMAN:

Question. State your occupation, age, and place of residence.—Answer. I am a lawyer; age, forty years; residence, Ohio.

Q. If you know of any negotiation or arrangement made by which any cadetships at West Point or Annapolis were sold, bartered, bargained for, or anything of the sort, state it to the committee.—A. Well, I do know of a case where an appointment was made, so far as I understood the matter, for a pecuniary consideration. It was a case where an appointment was made outside of the locality of the appointee. A late officer of the army had written to Washington, very earnestly and anxiously, in reference to getting his son appointed; but the appointment for his congressional district had been made. As the father was an old army officer, it was thought no more than right that the boy should be got in if he could. I think one trouble was that the boy was two or three months too old. The question was raised, and I was asked for my legal opinion as to whether the boy could be appointed from a district in which he did not reside, or had not formerly resided. I gave my opinion that it could not be legally done. The old general expressed a very strong desire that his boy should have the appointment, no matter at what expense. I think it was finally arranged in this way: There were one or two papers in Tennessee that were not on very good footing financially; and as there was no candidate from that congressional district, this boy was appointed, and the father advanced some money to help along those papers.

Q. Who was the applicant?—A. General Tyler, of New Jersey.

Q. Who was the congressman that secured his appointment?—A. Mr. Butler, of Tennessee.

Q. Were the negotiations made through you?—A. Well, not altogether. I was informed that Butler had a vacancy that could be had, and so wrote to the gentleman representing Mr. Tyler.

Q. Who was that gentleman?—A. General Schoepfe; I think he is one of the examiners in the Patent Office.

Q. Do you know whether any money was actually paid by Mr. Tyler?—A. I have every reason to believe there was.

Q. What reasons have you for believing so?—A. I think some money passed through my hands.

Q. How much?—A. I think it was about \$1,000.

Q. To whom did you pay it?—A. I paid it to Mr. Butler himself. I will not be certain as to the exact amount, but it was not far either way from \$1,000; it may have been more; I don't know whether anybody else paid him any.

Q. And the appointment was made by Mr. Butler in consideration of the \$1,000 you paid him?—A. I do not know that I have any right to swear that it was made in consideration of that. I had had a conversation or two with Mr. Butler before the money part of the matter was broached, and urged upon him, if he had no application in his own district, to appoint this young man. I took considerable interest in the matter, and so did General Schofield. I had given my opinion that the appointment would not be legal, unless the young man should remove to Mr. Butler's district and obtain a residence there; but his father said he was willing to do that for the sake of getting the appointment. The young man was very intelligent and bright, and I believed would have done credit to any man making the appointment; I remember that Butler said the same thing, speaking very favorably of him. Whether the money induced Butler to make the appointment, or whether he would have made it anyway, had he received no money, of course I cannot say.

Q. Was the money paid over to Mr. Butler before or after the appointment was made?—A. I cannot say which. The one event succeeded the other very closely, I know. I got the money, I think, from General Schoepfe; I know he was acting directly for General Tyler; I can say this much for certain, I gave to Mr. Butler somewhere about \$1,000 that came from General Tyler.

Q. Do you know whether any other parties received anything for their services in connection with the matter?—A. Well, I wrote a regular legal opinion, and bothered myself about it a good deal in one way and another, and I received something, exactly how much I cannot say. At first, I went about the matter voluntarily, and without charge; but then there came up a question of law as to locality, and a question of law as to age, and I had to give a legal opinion, and do a great deal more in connection with the matter than I had at first contemplated, and I received some compensation; as I said before, I have forgotten exactly how much, for my legal services.

Q. Was it to West Point that this young man was sent?—A. I think it was to Annapolis; it could be easily discovered by looking at the list of students.

Q. What part did General Schofield take in these negotiations?—A. He talked in favor of the young man to Butler; I never understood that he had any interest in the matter, further than that he was acquainted with the old gentleman.

Q. Do you know of any other cases where money was taken for making appointments?—A. O, no; I wish it understood that I never engaged in any general brokerage business of this kind. In this instance, I became interested in the young man and his father; I went to Garfield and Stevens, to see if they knew of any vacancies, and got a list of vacancies from General Schofield; I found several, and was introduced to two or three representatives from the Southern States, but nothing came of it; then I found that Butler had this appointment, that could be obtained, for a consideration, and since I had taken hold of the matter, I thought I would put it through. That is all the experience I have ever had in this line of business.

WASHINGTON, February 25, 1870.

GEORGE F. ESTE recalled.

Question. Who introduced you to Mr. Butler?—Answer. I think General Garfield did.

Q. Where did that introduction take place?—A. In the House, or in one of the corridors.

Q. Was it at your request?—A. Yes, sir; it was at my request. I did not know Mr. Butler, and I requested General Garfield to introduce me.

Q. What was your object in seeking the interview?—A. My object was to talk to Mr. Butler in regard to the vacancy which I had learned from the list that I had received from the War Department was in his district.

Q. Do you remember the statements that you made to Mr. Butler in that interview?—

A. I cannot state them, of course, *verbatim*, except the general import of them. I asked him whether he did not have a vacancy at his disposal, and whether he had decided to give it to any one. Upon discovering that he had a vacancy, and that he had not decided to give it to any one, I said to him that I was very anxious to procure an appointment for the son of General Tyler.

Q. Did you not tell him that you were informed by the Secretary of War that there was a vacancy in his district?—A. I may have stated that; I cannot say precisely; I had learned the fact, however, from the list of vacancies which the Secretary of War was kind enough to give me.

Q. Was there anything said in that interview as to any consideration for the appointment?—A. Not a word. I extolled the merits of the young man and the character of his father, who was an old officer in the army.

Q. Did you ever at any time make any proposition to Mr. Butler to pay him for the

appointment?—A. Not for the appointment; not until after I understood that the appointment was agreed upon by him. After speaking of the merits of this young man and of the position of his father, and that he had a great many friends who would be very much gratified at the appointment, which would be a credit to Mr. Butler's own district, (as I understood the young man had been prepared in his course of studies for several years with a view especially to go to West Point,) I remember that during the conversation Mr. Butler raised the question of the legality of an appointment where the party appointed had not been a resident of the district; and I remember stating to Mr. Butler that I had examined that question quite fully, and was satisfied myself that the appointment was legal, provided the appointee would become a resident of the district. I also remember saying to him in that conversation that, to satisfy his own mind, he should go to General Schofield, in the War Department, and there learn the opinion of the War Department upon that subject. I think that that was about all that occurred about that time.

Q. Was anything at all said about pay until long after the appointment was made?—A. I will tell you all that occurred in regard to the whole subject.

Q. You stated in your previous testimony that the appointment was made by Mr. Butler in consideration of \$1,000 paid by you; do you mean to let that stand?—

A. No, sir; that was the use of a wrong word in a wrong place. I had forgotten all about the matter at the time, and it is easy to understand how a wrong expression might be easily used. It is my own experience as a lawyer that very few people will measure their language as they ought to do in giving testimony. The fact about it is simply this, that, after I left Mr. Butler to make that inquiry, I saw him again, perhaps at his house, or I saw him casually at the Capitol, and I think that all that passed between us was that I asked him whether he had seen the Secretary of War, and I think he said he had. I think I saw him at the House afterward, and he suggested to me that, while he was satisfied he could make the appointment, provided the young man would make his residence in his district, he wanted some assurance that he would do so. I then undertook to get the assurance through the friends of General Tyler. I informed General Schoepfe that Mr. Butler desired to have an assurance that young Tyler should go to his district immediately or soon, and I asked General Schoepfe to procure that assent from General Tyler. Then Mr. Butler, I am sure, informed me that he would be willing to make the appointment, and I took it that the appointment was agreed upon, and so informed, I think, General Schoepfe, in order that he might inform General Tyler that the appointment was made, or would be made; that Mr. Butler had agreed to make it. After that I myself suggested to General Schoepfe that General Tyler ought to make a handsome present to Mr. Butler. He said there would be no question about that; that General Tyler had authorized him to say in the very beginning (and I think he informed me perhaps at the very first interview I had with him) that General Tyler was so anxious about it that considerations were no object, and that anything I might ask I could have. I said to General Schoepfe in reply to that, "General, I am not doing this for General Tyler; I am doing it for you as a friend. I would not undertake to do anything of this sort for anybody except as a matter of personal friendship; it is out of my line, I am not in that business." General Schoepfe said something to me in reference to the propriety of it, but I said we would not discuss that point then, and that I doubted anyway whether the appointment could be made; that I doubted very much whether the appointment was legal, and that, prior to making any effort about it, I should first inform myself upon that point; which I did by my own examination, and also by conversations with General Schofield in the War Department, and with other people as to what had been the practice. It was upon my own motion, and knowing that General Tyler would be only too glad to make any recognition of it, that I did suggest to Mr. Butler the propriety of his permitting me to give him a certain sum of money, more or less, (I do not know what it was.) We had perhaps some talk in regard to the condition of the proposed canvass, or something of that sort. The main point with me was that I understood Mr. Butler was representing Mr. Johnson's old district, and that Mr. Johnson would be coming back one of those days, and I think that perhaps I alluded to the fact that he would have Andy back on him.

Q. Did you have reference to the campaign then going on in Tennessee?—A. I do not recollect the fact whether there was a campaign going on or not. I think he mentioned the fact that there were two papers in his district in a very bad condition and that required support. I had no conversation directly or indirectly with General Tyler; I communicated this to General Schoepfe who was acting as General Tyler's friend.

Q. When you paid over this money, was it with the understanding that it was for Mr. Butler himself, or for campaign expenses?—A. I will say that, so far as I was concerned, I felt like this—that Mr. Butler did a very kind and generous thing, and that it was the duty of General Tyler to recognize it. Mr. Butler said that these things were existing in his district, and I proposed to him myself to take it for that purpose. I remember his saying in that conversation, "General, I do not know; I cannot take this for myself."

Q. How long was it after the appointment was made before you gave him the money?—A. I cannot say. This was a matter running through two or three weeks from the beginning, and as to the exact time occurring between these different things I cannot state. I am satisfied, the more I have thought of it, that the money was paid after I understood that the appointment was made, and had so informed General Schoepfe.

Q. Was it some ten or fifteen days after?—A. Oh, no, not so long as that; I think it was very soon after; but it was after I had Mr. Butler's promise that the appointment should be made.

Q. You never had, before the appointment was made, proposed to pay Mr. Butler anything for the appointment?—A. No, sir; I never proposed to pay him for the appointment; and I am fortified in that impression by two or three reasons. In the first place, during my investigation of the matter, and before I had made any inquiries about it, except as to the question of practice and of the law, General Schoepfe came to my office one day and said to me that he could get an appointment; and I think he named a sum of money for which he could get it. I told him to have nothing to do with such a thing; to leave it alone. I suppose that in three or four ways it came to my knowledge that such a thing could be had for a consideration. Of course, it made no difference to me, and I did not avail myself of it. This was before the introduction to Mr. Butler, and if I had desired to accomplish my object in that way, I had abundant opportunity; but I did not choose to do it. And a reason, too, why I went to Mr. Butler was that, having heard these rumors, I came to the conclusion, after getting my list of vacancies from the War Department, that, as the members from the extreme Gulf States were generally men new to their districts, and not under obligations to their constituents, such as we have ordinarily to recognize, and as Mr. Butler had a vacancy from an old State, where I understood he was brought up, I thought it possible that he was a little higher toned than gentlemen from the Gulf States. I had heard, too, that he was a high-toned gentleman. General Garfield had spoken of him to me very highly.

Q. In your interviews with Mr. Butler, did you state to him that it would be a personal favor to the Secretary of War, and that General Tyler was an intimate friend of the Secretary of War?—A. I cannot state as to what I said about its being a personal favor to General Schofield. I alluded to General Schofield, among others, as being a gentleman in close relations, perhaps, with General Tyler, and that it would be a great favor to a large number of gentlemen if it was done. I remember stating the fact, that General Tyler had a great many warm and intimate friends who would be very much gratified at anything that would be done in that way.

Q. Do you recollect saying to him that the Secretary of War said that an appointment made out of the district would be legal?—A. I referred him to General Schofield, and told him not to rely upon my opinion simply, although I had examined the question and had no doubt about it; but I referred himself to General Schofield, to satisfy him.

Q. When you first had an interview with Mr. Butler, did he not say to you that he would do nothing in the matter until he had an interview with the Secretary of War and found out whether or not the appointment could be made?—A. As to that, of course I cannot state the exact language employed by Mr. Butler, but the fact was that I did leave him with the understanding that he was to see General Schofield. Just what he said about it I cannot of course recollect. In expressing to him the opinion that it would be legal, I told him I had examined the question and felt satisfied that the appointment would be a legal one, provided the young man would make his residence in the district. I know that I referred him, to inform himself further, to the Secretary of War, as I myself had learned from him and from others, that that had been the practice of the department for a long time.

Q. Did not Mr. Butler tell you that he had had an interview with the Secretary of War, and that the Secretary informed him that it would be very gratifying to him if the appointment was made?—A. My impression is that he informed me that he had an interview with General Schofield, and I think he informed me that, either from General Schofield or from others, my statements in regard to the matter, and in regard to the character of General Tyler, were more than corroborated. But just from whom he learned it I cannot state. I remember very well his saying something in that connection.

Q. Did General Schoepfe tell you from whom he could procure an appointment for a consideration?—A. He might have done so, but I do not recollect now whether he did or not.

Q. Are you sure as to whether he mentioned Mr. Butler in that connection?—A. Oh, no; he did not mention Mr. Butler in that connection. My own impression is that General Schoepfe never had an interview with Mr. Butler; but whom he had the information from I do not recollect.

Q. When you paid this money to Mr. Butler, did you not propose at that time to give him a thousand dollars, the full amount, and did he not refuse to receive it?—A. I do

not know about that. I do not remember the amount now. I only know that after the appointment was agreed upon and settled, so far as I understand it, I suggested the propriety of General Tyler sending a sum of money, which I intended for Mr. Butler. Whether I mentioned any particular sum or not I do not know. Just precisely all the conversation that took place at that time I do not know, except that there was this general talk in regard to the propriety of his receiving it, coming from me, as a recognition of his doing what I regarded as a very generous action. I intended that Mr. Butler should not go without a proper recognition from General Tyler, although I did not state that to Mr. Butler.

Q. Did you mean it for Mr. Butler individually, or for campaign purposes, and to support the press down there?—A. I felt no personal interest in the press or in the canvass, and I did not care what he did with the money. I felt that it was due to him personally as a recognition of his having done a generous thing. I know that he said in that connection that he would not receive it for himself. He stated that distinctly to me.

Q. Did you have any talk with General Schofield after the appointment was made?—A. I do not recollect. I think General Tyler himself came on.

Q. Can you state the amount of money which you yourself received?—A. I cannot. I do not recollect receiving any money for myself. General Schoepfe proposed to me in the beginning that General Tyler would like to reward me largely for doing anything about it. I told him that I could not do it for any consideration, but as a matter of personal friendship to him, and I should not have started into the thing with the idea of getting anything from anybody. If I remembered the fact of receiving money I would be very glad to state it, but I do not recollect anything about the sum. It was not the principal point in my mind. The point was to get the appointment.

WASHINGTON, *February 24, 1870.*

SAMUEL MILLIGAN sworn and examined.

By the CHAIRMAN:

Question. What is your occupation?—Answer. I am judge of the Court of Claims.

Q. Where do you reside?—A. My home is in Greeneville, East Tennessee.

Q. In Judge Butler's congressional district?—A. Yes, sir.

Q. State what you know in reference to Judge Butler's appointment of a cadet from his district to the Military or Naval Academy of the United States, or any attempt on his part to find some person fitted for the appointment.—A. Some time in March, 1869, Mr. Butler was kind enough to ask me if one of my sons did not desire an appointment, either to West Point or to the Naval Academy. I told him that one of my boys did desire it. He said he would give it to me, and I might select which place I wanted him to go to. I remarked that the boy had selected the Naval Academy, and I would rather conform to his wishes. He accordingly gave me the appointment. He never said anything to me about any compensation; I never gave him anything except many thanks for his kindness. My boy was admitted. At the same time Mr. Butler spoke to me about my boy he asked me if I knew of any young man in my district who desired to go to West Point. I said no. He said that he desired to get a young man to go to West Point; but he had made two appointments and both of them were rejected. He said that if I knew of any sprightly, well-qualified young man fitted for the place, he would give him the appointment. I told him I at that time knew of none. He said perhaps I might think of some after a little. I thought over the matter, but could not recollect any. There were doubtless some well qualified who would not wish to go to West Point, and there were perhaps those who would wish to go to West Point, but were not qualified. The war had broken down all our schools, and four or five years gone out of a young man's education makes a great difference with him. This is the substance of what occurred between us.

WASHINGTON, *February 24, 1870.*

ROBERT A. CRAWFORD sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?—Answer. In Greeneville, Tennessee.

Q. State to the committee anything you may know in regard to any effort on the part of Judge Butler to find some person from his own district to appoint to the Military Academy at West Point, or the Naval Academy at Annapolis.—A. I think it was about the last of March or the first of April, that Judge Butler came to me and said that he wanted to find somebody from his district who would go to West Point. He had an appointment to make, both to West Point and the Naval Academy, and had sent Judge Milligan's son to the Naval Academy. He wanted to know if I could think of any one from his district who was qualified. There had been no one appointed from there for many years. I thought over the matter for a fortnight, but could think of none. We had no schools in that district when the war was going on, and there were

very few young men there, of the proper age, who could have passed such an examination as is required for admission to West Point. We talked over the matter twice, but still could think of no one. I never heard anything further about the matter until now. I recollect I said to Judge Butler, "Why not appoint one of your own sons, since no one else will accept the position?" He said he did not care to have his sons educated at West Point. One of them was not in good health, and to the appointment of the other one there was some other objection. Then I wrote to several young men, but could find none who desired to make application for the position. Judge Butler, I understood, had made two or three appointments, but they had been rejected on account of failing to pass examination. I did the very best I could to procure some one for the position. I was anxious to do so for the honor of our State. During the rebellion we had in East Tennessee very few men qualified for officers, because they had not been educated for the position. I felt that keenly during the war. If we had young men educated at West Point, Tennessee would have had men ready to take a high military position when occasion offered for them to do so. At this time I do not know positively of a single young man in our district of loyal parentage who could stand examination at West Point.

Q. What do you mean by loyal parentage?—A. I mean whose father was loyal.

Q. Would you object to having a boy sent to West Point to be educated, whose father was not loyal?—A. I most certainly should.

Q. Was Judge Butler in the army?—A. Yes, sir.

Q. In which army?—A. The federal army, sir. The 13th Tennessee regiment. Judge Butler always expressed himself strongly in favor of the government.

Q. When was the last congressional election held in Tennessee?—A. It was in November, 1868.

Q. State to the committee Mr. Butler's condition so far as money matters are concerned.—A. I understand that he has a large property; considerable valuable real estate.

WASHINGTON, D. C., *February 24, 1870.*

WILLIAM B. STOKES sworn and examined.

By the CHAIRMAN:

Question. What is your position, and where do you reside?—Answer. I am a member of Congress; I reside in Alexandria, Tennessee.

Q. State anything you may know with reference to any contributions made by Mr. Butler for the benefit of his party, or the newspapers of his party, in Tennessee.—A. I know that Judge Butler contributed \$500 to the support of the State Journal last summer; at least I saw it so stated by the chairman of the State central committee; and he gave me a paper containing the names of the men who had contributed to the State Journal amounts exceeding \$25; among them was Judge Butler's name, and annexed to it was the sum of \$500.

Q. What time was this?—A. Our convention was held about the 20th of May, and this, I should say, was about the middle of June. The Press and Times sold out to the opposition about the 10th of June, and immediately afterward, of course, we got up the other paper, the State Journal.

By Mr. ASPER:

Q. How long after Judge Butler went home last spring?—A. I suppose it was about the middle of June—possibly not until some time in July.

Q. This was the time you saw the list with Judge Butler's name on it?—A. Yes, sir.

Q. When was the payment made?—A. That I do not know.

Q. It stood to him as an individual subscription?—A. Yes, sir.

By the CHAIRMAN:

Q. What was this State Journal?—A. It was the State organ of the republican party in Tennessee.

Q. What time did Judge Butler go from Washington to Tennessee?—A. I understood that he went directly from Washington to the convention of the 20th of May.

(Mr. Butler corroborated this statement.)

Q. At what election was this?—A. It was the general election for governor and State officers. The election for members of Congress had taken place the fall before.

Q. Did you ever have any conversation with Charlie Smith about his son being rejected?—A. No, sir.

WASHINGTON, *March 7, 1870.*

H. W. DURGIN sworn and examined.

By Mr. BUTLER:

Question. State when it was that you came here last spring, with the president of the East Tennessee and Virginia and East Tennessee and Georgia railroads?—Answer.

We reached here on the evening of the 27th of February, about dark. I knew that it was about that time from my own memory; and yesterday I examined the hotel register and found it as I have stated. I registered the party myself, in my own handwriting.

Q. State the occasion of your coming to Washington at that time.—A. About that time Mr. Calloway, president of the East Tennessee and Virginia and East Tennessee and Georgia railroads, was in correspondence with you in relation to those railroads, and their connection with the government; I do not remember the exact date, but it was previous to our coming.

Q. Please state whether, immediately upon your arrival here, I did not inform you that I had seen General Schofield and had arranged matters satisfactorily.—A. Something to that effect; I cannot say exactly the character of the communication, but we understood from you that the matter stood favorably with the War Department; I cannot remember the exact status of the matter, but that was the general effect of it. I think you saw us on the evening we arrived here; possibly, however, not until the next morning. I understood that from your conversation, which was more with Mr. Calloway than with me.

By Mr. LOGAN:

Q. One question was omitted. State your age, residence, and occupation.—A. I am thirty years of age; I reside in Tennessee; am engaged in the railroad business.

WASHINGTON, *March 2, 1870.*

E. A. SAWYER sworn and examined.

By Mr. BUTLER:

Question. State your age and residence.—Answer. My age is forty-eight years; I reside in Tennessee, Jefferson County.

Q. State what took place last spring in relation to certain money received by me for the benefit of the party in that State.—A. Some time about last March I went to Judge Butler's room one day; on going in he introduced me to a gentleman by the name of Este; I would not know him now if I should see him. He went out just as I went in. I noticed there was some money lying on the table—a roll of bills; I said, "I have come just in good time; I want some money; I guess I had better grab it now," and I put my hands on the money. Judge Butler said that was not his money. I said I wanted twenty dollars for Dr. Hamilton of Georgia; he said he could let me have some money, but not that; he asked me if I wanted any more than twenty dollars. I said, "No; twenty dollars is all I want." He said that money was not his; that the man who had just left the room, Mr. Este, had fetched it from somebody in New York, to be used in starting a paper at Morristown. I said no more; I got my own money and just left. The judge went into his room and got the money which he gave me from a chest. He did not get it from the roll of money on the table; he said that was not his. That is all I know about the matter.

By Mr. HOGE:

Q. Who was present beside Mr. Este?—A. I do not know.

Q. About what time in March was this?—A. Near the middle, I should say.

WASHINGTON, *March 2, 1870.*

WILLIAM SPENCE sworn and examined:

By Mr. BUTLER:

Question. State your residence and occupation.—Answer. I reside in Murfreesboro, Tennessee; I was formerly a trader, but at present I am engaged in farming.

Q. Tell the committee all you recollect in relation to the matter of certain money being left with me for the benefit of the party and the newspapers in our State.—A. Is what I am going to say to be taken down?

Q. Yes, sir.—A. I want to state, before saying anything on that subject, that my memory is not very good—my recollection in regard to this matter at any rate—and any statement I may make I wish understood to be as much from what Mr. Sawyer has said in conversation since as from any recollection I have myself. With this explanation I will state to the committee this: I was at Judge Butler's room one evening, the last of March or the first of April, I cannot say the exact date, when a gentleman came in, whom I did not know—I had never seen him before and I have never seen him since—and said he wanted to see Mr. Butler on private business. Mr. Butler told him that we were all friends, and whatever he had to say he could talk it out. This man then mentioned that he had a sum of money that he wanted to let Mr. Butler have, or to leave with him. I do not recollect that he said what the money was for; if he did my memory does not serve me now; at any rate, I remember Mr. Butler did not want to receive the money. I said, "Goodness alive, if I could get a chance to

take any money I would take it." That is, I meant, of course, if it was money that it was right for me to have. I understood in some way that it was for use in connection with our election. I said the party was very poor, and we ought to take all the money we could get, and get all we could. I did not know for what particular purpose the money was brought to Mr. Butler, but had a general understanding that it was intended to help us out in our election.

Q. State to the committee whether I took the money at all.—A. No, sir; my recollection is, that there was considerable conversation about the matter, and Judge Butler declared that he would not have the money. I insisted that he should take it. The gentleman that brought it spoke as if he ought to have some of it. I told him if he had any right to any of the money he ought to have taken it out before handing it to Mr. Butler. I did not dream of its being connected with anything illegal; it was a matter very common and usual for money to be given in that way for election purposes while we were getting Tennessee all right. President Johnson one time telegraphed to me at Memphis to send him \$5,000, or our paper would go down. I sent the \$5,000 immediately. I got \$3,500 of it back. After Johnson got to be President, and went back on us, as we considered it, the paper did go down; the press was sold, and I got \$3,500 of my money back. I thought this money was some that had come in some such way; the party needed assistance, and was sending to friends in other places for money, and I supposed this had come for that purpose. My recollection is that the gentleman did not give it to Mr. Butler but put it down on the table and left it. Mr. Butler insisted that he would not take it. I told Mr. Butler that if he would not take it I would. I do not think he counted the money. I do not remember whether I counted the money. I think I handed the hundred dollars to the man who brought it.

Q. State what I said as to where the money came from.—A. I do not think I can state particularly; I understood this much, that it was not his own money; he said it came from somebody up in New York, or New Jersey, or some place up there, but the gentleman's name I do not remember; it seemed to be for favors that Judge Butler had done for these parties, which it was perfectly right for him to do, and they in return were willing to do something for the Union cause. I do not remember that the conversation went to show what particular thing it was that had been done. I think Mr. Butler objected to taking the money on the ground that it might be construed that he was taking pay for things he ought not to do.

Q. Did I not state that I had appointed General Tyler's son to a cadetship, at the instance of the Secretary of War, and would not take the money lest it might be construed that I had taken pay for making that appointment?—A. I think very likely; I know you expressed a fear lest if you had anything to do with that money it would be construed that you had taken it for some wrong purpose.

Q. State whether, when this man complained about not being paid for his trouble, I did or did not tell him he had better keep all the money.—A. I think you did; and I think I rather objected to that. I recollect when he said he had been at a good deal of trouble, you replied that he had better take it all then—that it was not for your benefit; that is about the language you used.

Q. Had you been drinking then, or were you sober?—A. Well, I had been drinking.

By Mr. LOGAN:

Q. Do you know who this man was that left the money?—A. I had never seen him before that time, and I have never seen him since; he was a tolerably large man; he was introduced to me as "General" somebody.

Q. Este?—A. Yes; that is the name.

Q. What was said about that money after he left the room?—A. After he left, or just before, I forget which, Mr. Sawyer came in and wanted to borrow some money; he saw that roll of bills on the table, and said he had come just in good time, and grabbed hold of the money; I told him to take what he wanted; but Butler said, "Don't take that; it don't belong to me; it is intended for other uses." Mr. Butler then went back into another room, and got some other money and let Mr. Sawyer have it.

Q. How long did General Este stay after Mr. Sawyer came in?—A. That I do not recollect.

By Mr. BUTLER:

Q. After General Este went out did I not say I was very sorry that you took the money—I would rather you would have given it back to him?—A. There was a good deal of conversation about the money; but what it was I do not remember distinctly.

Q. What was done with the money?—A. After a while you rolled the money up and laid it away. But before that, you wanted me to take the money, and I would not. Then you rolled it up, and said we would meet at Nashville, at the convention, and fix upon some plan to dispose of this money then.

Q. State whether or not I told you to take that money and keep it until the convention convened, and if you said no—that you were on a spree, and if you had the money about you you would spend it; but that I must keep it until the convention met, and

there divide it among the newspapers?—A. That is very like what I would say, but I do not remember what I did say.

Q. How long after the inauguration, according to your memory, did this occurrence take place?—A. It must have been three or four weeks. I think two or three weeks; more probably.

Q. Do you remember the amount of the money?—A. The gentleman said there was a thousand dollars.

Q. Do you remember how much was paid back?—A. O, yes; a hundred dollars; that was what he asked for; I forget whether I picked up the money and handed it to him, or whether he himself took it from the money on the table.

Q. Do you remember insisting on my taking the money?—A. Yes, sir; I recollect that distinctly.

Q. Do you recollect the fact of our newspaper at Nashville being sold out, so we had to start the State Journal there?—A. O, yes, sir; I remember that very well.

By Mr. SLOCUM:

Q. How long have you been in this city?—A. Five weeks; not all the time—I went to Philadelphia and staid four or five days.

Q. Were you here when this investigation commenced?—A. No, sir; I was in Philadelphia.

Q. Were you here when Mr. Butler's case was first brought before the committee?—A. No, sir; I was absent.

Q. What is your business in Washington?—A. My business here is to collect a claim against the government for commissary and quartermaster's stores.

Q. Were you present when the money was brought into Mr. Butler's room?—A. Yes, sir.

Q. And you cannot recall to mind what the money was for?—A. There was a good deal of talk over the matter, I know; but I cannot recollect what the gentleman first said in offering the money.

Q. Do you recollect Mr. Butler's offering him a hundred dollars?—A. The man asked for a hundred dollars.

Q. Did you approve of his taking that?—A. I think I did.

Q. And you cannot tell what he was entitled to it for?—A. No, I cannot.

Q. Where was the money at this time?—A. On the table.

Q. Who finally took it?—A. Mr. Butler rolled it up and put it away.

Q. Did you ever hear any more of it?—A. No more, except that it was to be used for the campaign, and for the benefit of the newspapers. I never thought much more about it any way; I do not know that I ever asked a question about it again.

Q. Had you ever known of money being raised and sent down there in that way before for such purposes?—A. O, yes, often; we have raised money in Washington and Philadelphia and New York, and sent it down there.

Q. It generally came in the shape of contributions, did it not?—A. Yes, sir; but generally some one man would pay it over.

Q. But was it not rather an unusual thing for a thousand dollars to be sent at once in that way?—A. Yes; rather an unusual thing.

Q. Have you had any talk with Judge Butler since?—A. Not at all; that is, not until yesterday.

By Mr. WITCHER:

Q. You say the judge took the money and put it away?—A. Yes, sir.

Q. Did he hesitate when he took the money?—A. Yes, sir. He wanted me to take the money and take it home, but I would not do it; I told him to keep it until the convention met; I said I would not take the money—I did not feel that it would be safe; I refused to take it, and insisted that he should keep it.

By Mr. BUTLER:

Q. When Mr. Sawyer came in did he not say he wanted twenty dollars for Mr. Hamilton, of Georgia?—A. I know he said he wanted it for somebody. I was going to let Sawyer have the money from the roll on the table, but Mr. Butler said he would loan his own money; that that on the table was not his.

Q. After Este left the room did I not say, "I am sorry you took that money; I rather you would not have done it?"—A. My recollection is you were not satisfied, and feared lest some harm might grow out of it.

Q. Did I not want you the next morning to take that money and divide it among the papers?—A. Yes, sir.

Q. And did you not say you were on a spree, and did not feel that it would be safe to carry much money about you?—A. I do not recollect distinctly what I did say; I know you asked me to take it, and I refused.

When I came to the fortieth Congress I was notified that there was a vacancy from my district, both in the Military Academy at West Point and in the Naval Academy at Annapolis. I sent out to the district to my friends to see if they could find some young

men to fill the places. I found that Charles Smith, of Granger County, in my district, had a son, an intelligent boy, who it was thought could undergo an examination, and I nominated him to the Military Academy at West Point. William Galbreath, of Jefferson County, in my district, wrote to me stating he had a son who he would like to have appointed to the Naval Academy at Annapolis. I immediately nominated him for the position. The parents of these two young men took them up to West Point and Annapolis for examination, and they both were rejected by the board because their education was not sufficient. Believing that injustice had been done to them, I went to the War Department and tried to get a re-examination for them, but was informed that that could not be done under any circumstances. I then wrote to every county in my district, to my friends, to find some young men to accept these positions who could pass an examination. I also went to Colonel Crawford in person, who was well acquainted with the people of my district, and asked of him if he knew or could find any young men in my district who would take the positions. Some three weeks afterward he informed me he had made every effort and could not find any one who could undergo the necessary examination. William Harris, of Dandridge, in my district, in answer to my letter making inquiry, wrote me to appoint a son of Henry Harris, and I immediately wrote to send me his name and age, and that I would make the appointment; but in a day or two he wrote me not to appoint him, as he was of bad habits. I received answers to my various letters requesting my friends to find young men for these places, all saying that owing to all the schools being closed during the war, the young men were not sufficiently advanced to pass the examination. Judge Samuel Milligan, one of the judges of the Court of Claims and a citizen of my district, came to me and asked me to appoint his son to the Naval Academy, as he believed his son, having had some superior advantages, could pass the necessary examination. I told him I would do so with pleasure, and that his son could either go to West Point or Annapolis; that I had made every effort and could find no one to take those places who could pass. He preferred the Naval Academy for his son, and I gave him the appointment. Judge Milligan being extensively acquainted in my district, I requested him to see if he could find or think of any one who would accept the position, and he promised me he would do so. I saw him some time afterward, and he informed me he could not find or think of any one who could pass the necessary examination.

I received a letter from the War Department, notifying me if I did not nominate some one to fill the vacancy at West Point that the same would be filled for me. In the month of February, 1869, a member of the House of Representatives came to my seat, while the House was in session, and informed me he wanted to introduce me to General Este, a friend of his, and he took me to the door and introduced us. He told me General Este was a gentleman, and that any favors I could extend to him would be duly appreciated by him. General Este stated to me that he had learned from the Secretary of War that there was a vacancy in the Military Academy from my district. I told him there was, and had made every effort within my power to have it filled. He stated to me that General Tyler, an old army officer, had a very promising son, and that he (Tyler) desired to give him a military education, and he called to see if I would not appoint young Tyler to the position. I told him that I could not appoint him, as the appointment would not be recognized by the War Department, as General Tyler was not a citizen of my district, and, if possible, I wanted to find some one in my district to fill the place. He said that General Tyler had no residence, and that the Secretary of War and himself had a conversation about the appointment of young Tyler, and that it would prove very gratifying to the Secretary of War if I would appoint him. I told him I would go up to the War Department and see the Secretary upon the subject. The next morning I called at the War Department to have an interview with the Secretary relative to the East Tennessee and Georgia and East Tennessee and Virginia railroads; and during the interview he mentioned the appointment of young Tyler to me, saying he was the son of an old army officer and of unusual promise, and that his appointment would be very gratifying to him. I told him that General Tyler was not a citizen of my district, and that the appointment would not be recognized; but he remarked that a residence could be acquired in a very short time, and that such had been the practice of the government; that the great object was to fill the school with sprightly boys who would do honor to the country. After the conversation relative to the railroads, just as I was about to retire, I remarked to him if the appointment met his approbation, and would be of any gratification to him, I would make it. He said it would meet his approbation, and he would be much gratified if I would make it. In a day or two afterward General Este came to see me again relative to the matter, and I told him I had been to see the Secretary of War about the appointment, and that he said he would be much gratified if I would give it to young Tyler, and that I had promised him I would do so. General Este thanked me very kindly, and said that I would never regret it, as young Tyler was an unusually promising young man. I told him that General Schofield had been very kind to me relative to our railroads, and that when he made the request, having no one from my district to take the position, I was gratified to have it in my power to accommodate him. I told General Este to go

to the Secretary of War and get the necessary papers, and that I would make the appointment. He said he would do so; and in a short time returned with the necessary papers, and I made the appointment. He asked me to state on the paper for the communication from the Secretary of War to be sent to me here, and that he would go up and get the appointment and send it to General Tyler, which I presumed he did, as I never heard of it afterward.

In the month of March following—some time after the inauguration of President Grant—General Este came to my room one evening about dark. I asked him to take a seat, after introducing him to Colonel Spence and E. A. Sawyers, of Tennessee, who were in the room when he came in. He said he wanted to see me on a little business privately, and I told him to go on and tell what it was, as those present were all friends from Tennessee. He said General Tyler wanted to recognize the kind act I had done in nominating his son to West Point, by sending down some money to help in the campaign in Tennessee. I told him that I did not want any recognition of that kind, that I had made the appointment at the request of General Schofield, and that I would not receive one cent of money for any purpose. He insisted that I should take it and help me in my election; but I told him I had no election on hand, as I had been re-elected a few months before; he still insisted, and said the election for governor was coming on in the State and to send it down and let it be used in that election and help the newspapers. I told him that I would not take it, as it was coming from General Tyler; that I had appointed his son to West Point, and it might be construed that I made the appointment on mercenary motives. Colonel Spence interposed, and said to me, "You got to take it, because we are going to have a hard time down there in our election, and you know a few of us have to support our newspapers," and remarked, "You know I have paid five thousand dollars (\$5,000) toward our newspapers lately, and I insist on your taking it for the papers." I informed him that I would have nothing to do with it; then he said he would take it, and for General Este to pull it out, and asked him how much it was, and he said about a thousand dollars, (\$1,000,) and pulled the money out. General Este said that he had been at a good deal of trouble to accommodate his friend, General Tyler; and I told him yes, and that he ought to keep that money for his trouble; he said a hundred dollars would satisfy him, and Colonel Spence took up a hundred-dollar bill from the table and handed it to him, which he accepted and put in his pocket. I told Colonel Spence to give it all back to him, and Spence said no, he was going to use it in the Tennessee election. General Este got up and left. E. A. Sawyers said to me, he wanted me to loan him twenty dollars (\$20) for Dr. Hambleton, of Georgia, for a few days, and Colonel Spence took a twenty-dollar bill of this money and handed it to Sawyers; but I told him not to do that—not to use any of that money that way, and went to my trunk, unlocked it, and got twenty dollars (\$20) and loaned it to him, which he afterward paid me by having the amount placed to my credit at the Exchange and Deposit Bank, Knoxville, Tennessee. E. A. Sawyer left the room, and Spence and myself remained; and when Colonel Spence went to leave, the money was still on the table, and he said to me to take charge of the money; I told him I would have nothing to do with it, and that I was sorry he took it; he remarked to me, "You know me; if I have that money and get on a spree, I would spend it in one night, or give it to the first person who asked me for it, and I don't know when I will get home; you take it, and bring it over to the convention, and we will give it to our newspapers." Knowing Colonel Spence well—having served with him in the State senate—and he being a little intoxicated that evening, I took the money and put it away. After Congress adjourned in April, I remained at Washington, looking after the interest of our Tennessee railroads, and went directly from here to our State convention in May. Our convention was a very boisterous one, and the result was there were two candidates for governor claiming to be republicans. The Press and Times, the leading republican paper in the State, was bought up by the enemies of General Stokes, and it became necessary to establish a paper in the interest of General Stokes. Of the nine hundred dollars (\$900) as aforesaid, I appropriated five hundred dollars (\$500) to said paper. There was a debt of two hundred and eighty dollars (\$280) upon the New Era, a republican paper published in East Tennessee. Out of said fund I satisfied said debt, which left a balance of one hundred and twenty dollars (\$120) in my hands, of which sum I gave one hundred dollars (\$100) to the Union Flag, a republican paper at Jonesboro, East Tennessee, which left twenty dollars in my hands. A few days before the election, and after the tickets had been printed and distributed, George Wells, of Hawkins County, was brought out by the republicans for the legislature, believing that the republican candidate then in the field could not be successful, thereby making it necessary to have new tickets printed, and I appropriated the said twenty dollars for that purpose, which exhausted the whole amount. I never appropriated one cent of that money to my own use, and that no money was offered me directly or indirectly for the appointment of young Tyler, and that General Este nor no other person ever offered me money, directly or indirectly, or any other consideration, to make said appointment; and if I committed an error, it was one of judgment and not of intention. While

If the said returns be rejected and those only from the other five parishes of the district be computed, the votes will then stand. For Mr. Hunt, 4,582; for Sheldon, 7,717; showing a majority for Sheldon of 3,135 votes.

It is immaterial to consider the question of rejection in respect to the parish of Jefferson; for if the votes from that parish be computed with the votes from the said five parishes, the result would not be changed, except in a reduction of the majority for Sheldon to 1,573 votes. Upon the votes returned from the five wards of the city of New Orleans, then, depends the result of the election in the entire district.

The reason assigned for the rejection of the returns from the five wards of New Orleans is that the supervisors of registration in the parish of Orleans are not authorized to make returns of the election. This objection is made directly in the face of the law, either in misapprehension or disregard thereof. It is expressly made the duty of the supervisors of registration in each parish to make returns of the election to the secretary of state. Sec. 25, act No. 164, relative to elections, reads as follows:

SECTION 25. *Be it further enacted*, That it shall be the duty of said supervisors of registration in each parish to make out triplicate returns, to forward one of them immediately by mail to the secretary of state, and another to the secretary of state by the next most speedy mode of conveyance, and to deposit the third in the office of the clerk of the district court, and in the city of New Orleans, in the office of the clerk of the first district court; and for their willful failure or neglect herein, such supervisors shall, upon conviction before any court of competent jurisdiction, be fined in a sum not exceeding five hundred dollars, at the discretion of the court.

Besides the clear language of the act, we have the official opinion of the attorney general of the State that the supervisors of the parish of Orleans had authority to make the returns of election in question. The opinion is in evidence, Book 2, p. 571, and concludes as follows:

I am, therefore, of the opinion that the boards of supervisors of election, as constituted under the law throughout the State, as well in New Orleans as other parishes of the State, are the proper returning officers.

I am yours, very respectfully,

SIMEON BELDEN,
Attorney General.

Hon. G. E. BOVEE,
Secretary of State, State of Louisiana, New Orleans.

This same question arose in the contest between Hunt and Menard to fill a vacancy in this (second) district in the fortieth Congress. In that case Menard occupied the precise relative position on the merits as Sheldon does in the present case: the election was held at the same time; the action of the board of State canvassers was the same precisely in both cases; Menard received the certificate to fill the vacancy, and Sheldon received it for the forty-first Congress; Hunt contesting both. Upon this question of returning officers for parish of Orleans, as it arose in the case of Hunt *vs.* Menard, the majority of the Committee of Elections reported as follows:

Extract from report No. 27.

The reason given in the certified statement for the rejection of the vote of the parish of Orleans, viz: "that the returns were made by the boards of supervisors of registrations," shows that in this respect *the returns were made as required by law, and that the objection is invalid.*

By the provisions of section 25 of act No. 164, Laws of Louisiana, 1868, page 223, it is expressly made the duty of said supervisors of registration in each parish to make out and forward said returns to the secretary of state.

The foregoing is deemed sufficient to show satisfactorily that the votes cast in the parish of Orleans were legally returned to the secretary of state, and that the returns were unlawfully and wrongfully rejected by

the board of State canvassers, and that the votes so returned from the parish of Orleans are entitled to be, and should be, computed to ascertain the result of the election in the district.

In respect to the further reason assigned for the rejection of said returns, viz: the existence of anarchy and violence before and at the time of the election, all the witnesses examined by the committee in respect to the condition of the public peace in the city of New Orleans uniformly testify that at the time of the election, and for several days prior thereto, there was no disturbance of the public peace; that the election was conducted throughout in peace and quiet, and without the slightest interruption; and that every elector entitled to vote, and who offered or sought to cast his vote, was permitted to do so without molestation; and Mr. Sheldon, the contestee, is on the record himself, distinctly admitting that there was no disturbance of the public peace on the day of the election. (See part 1 of the testimony, page 12.) With this fact so fully established, what more can possibly be required to constitute a true and valid election? How, without manifest wrong, can the legal return of an election, so held in perfect freedom to voters and strict regard for the public peace, be lawfully or consistently rejected? It is safe to say that, upon the law, the facts, and the decisions, the election in said five wards was a true and valid election, and the returns thereof legally made cannot justifiably be rejected.

The anarchy, violence, and public disturbance in the city of New Orleans, set up by contestee and the majority of the committee as a proper ground for rejecting the returns of the election in the said five wards thereof, appears, by the testimony of the witnesses testifying on that point, to have occurred some time prior to the election, and therefore could not necessarily in any manner interrupt the proceedings at the election, nor prevent the ascertainment of the result.

The rule of law is well settled upon the question of riot and disturbance of the public peace at elections, and has governed the decisions in all analogous cases in courts and legislative bodies, both in England and this country. It is laid down in all the leading authorities on the law of elections, under appropriate titles, viz: Hayward on County Elections; Wordsworth's Law and Practice of Elections; Curtis's Law and Practice of Elections; Rowe on Elections; Sheppard on Elections; 4 Selden; Cooley on Const. Limit.; 1 Peckwell, &c., and is in substance, *that to invalidate or make void an election on the ground of riot and intimidation, it must appear that the proceedings at the election were interrupted and the ascertainment of the result prevented thereby.* This rule furnishes the ground of the decisions by the Committee of Elections in the several cases of *Harrison vs. Davis*, Contested Cases, vol. 2, p. 341; *Preston vs. Harris*, vol. 2, p. 346; *Clements, of Tennessee*, vol. 2, p. 366; *Bruce vs. Loan*, vol. 2, p. 519, Minority Report adopted by the House. In the first-mentioned case, the committee say:

We have now to consider the question whether the election is void by reason of riot and intimidation. The specification is, *that in all the wards bands of men conspired to exclude and obstruct legal voters who intended to vote for the contestant, and did, in fact, assemble at and near the voting places armed, and by threats intimidated, and by violence obstructed and drove away thousands of legal voters, and deterred many from approaching the polls.*

That statement, considered as an allegation of facts, which, if proved, avoid the election in point of law, is wholly insufficient. It nowhere makes the formal allegation that the law requires; either that *the election was arrested and broken up in every ward, or that so many individuals were excluded by violence and intimidation as would, if allowed to vote, have given the contestant the majority.* Either of those grounds, if stated and proved would have been in law decisive of the case; but neither is stated in the specification, and neither is proved by the evidence.

The case attempted to be made is one wholly different from either, and wholly un-

known in the annals of election law. It assumes that an election is necessarily void at which two thousand voters are prevented by violence or threats of violence from voting, though the election was never arrested, and though twenty thousand may have been cast, and all for one candidate, *which is absurd*.

It is therefore apparent that there is no case stated to avoid either the whole election or any part of it. It is not stated that the combination anywhere arrested the election, nor anywhere made such a display of force as ought to have intimidated men of ordinary firmness.

In the case of *Preston vs. Harris*, the committee express similar views, and say :

The committee refer here to the law upon the subject of election riots. The only cases in which elections have been set aside for this cause are when there was riot at the polls, or such tumult as interfered with the election, and prevented an ascertainment of the result.

Now it is very clear, from the evidence, that no such condition of things existed in the case under consideration. At every one of the polling places in the district of the sitting member, the election was uninterrupted ; the votes were all quietly canvassed ; the judges signed the returns ; they were transmitted, as the law requires, to the governor of the State ; the governor made proclamation of the result, and transmitted to the sitting member a certificate of his due election.

In the case of *Clements, of Tennessee*, the committee say :

The committee are also satisfied that on the day of election there was no armed rebel force present in this district preventing or restraining the voters from the exercise of the elective franchise ; and that though a violent and bitter public sentiment existed, calculated to overawe and intimidate, yet the rebel forces had not up to that time so taken possession of the district as to prevent such voters as chose to do so from depositing their votes for a representative in this Congress.

Notwithstanding this state of things, the committee in their report, which was approved by the House, came to the conclusion "that on the day of election no armed force prevented *any considerable number of voters*, in any part of said district, from going to the polls," and thereupon they sustained the validity of the election.

In the case of *Bruce vs. Loan*, the minority of the committee, whose report was adopted by the House, say :

The undersigned trust that the presence, in a few of the precincts in this seventh district of Missouri, of a few loyal State troops, acting under the orders of the State authorities, in guarding the polls, will not be considered more dangerous to the free exercise of the elective franchise than was in Tennessee the presence of rebels in arms.

It will be observed that these several cases were founded on allegations of riot, violence, public disorder, intimidation and interference with voters *on the day of election and at the polls*, and it was sought in each case to void the election in whole or in part ; but the committee and the House, finding that the proceedings at the election were not interrupted, and the result had been duly ascertained, declared the election in each case valid, thus sustaining the rule aforesaid ; and yet, with these former decisions by the committee and the House before them, and directly in point of the case now under consideration, the majority of the committee report that, because of riot and disturbance of the public peace, not on the day of election and at the polls, but several days before the election, during the political campaign in the city of New Orleans, the election in the five wards aforesaid should be considered void, and that too, not because the proceedings at the election were interrupted, or the result not ascertainable, but because a large number of republican electors *pretended* that they could not vote with personal safety, notwithstanding on the day of the election no violence, threats, nor intimidation operated to give even color to such pretense.

Another rule equally well established is, that whenever it is sought to set aside an election in part on the ground of illegal votes or riot and

intimidation, it must be made to appear that, if such illegal votes had not been received or if such riot and intimidation had not prevailed, the result of the election would have been different in the whole district; for otherwise it would be wholly immaterial whether the election was void or not in part. On this point reference is again made to the authorities before cited. This rule is self-evident, and has always heretofore been the guide of the Committee of Elections to its conclusions and governed the House in its decisions, and is directly in point of the contest now under consideration.

Mr. Hunt and Mr. Sheldon were candidates for the forty-first Congress in the second district of Louisiana; the election was lawfully held, and without fraud, and peaceably conducted throughout; the returns of the votes cast in the whole district show a large majority for Mr. Hunt; nevertheless Mr. Sheldon, by the wrongful act of the governor, obtains the certificate, and is admitted to the seat on *prima facie* right, and Mr. Hunt contests his right on the merits. The parties therefore stand in this contest thus: Mr. Hunt, the contestant, alleging and proving that of the votes cast in the whole district he has a large majority over Mr. Sheldon, and Mr. Sheldon, the sitting member, alleging that the election is void in part by reason of riot and violence in the parish of Jefferson and in five wards of New Orleans, prior to the day of election, which intimidated and deterred a large number of electors in said parish and wards from voting, and whose votes, if they had been cast, would have changed the result, and Sheldon would have had the majority instead of Hunt.

The following statement will show, however, that the result in the district would not have been different from what the returns made it; and that Mr. Sheldon would not have had a majority in the district if every registered elector in said parish and wards who did not vote had voted, and all had voted for him, but that Mr. Hunt would still have had a majority in the district; and therefore it is immaterial whether the election in said parish and wards was void or not. It is proper, however, first to explain a discrepancy between Mr. Hunt's brief and this report of the undersigned in respect to the number of votes received by Mr. Sheldon in the parish of Terre Bonne; Mr. Hunt, on page 2 of his brief, making the number 1,542, while in the statement of the undersigned the number is set down as 1,331.

Since the making up of Mr. Hunt's brief an error of 211 votes has been discovered in the number set down as having been received by Mr. Sheldon in the parish of Terre Bonne for member of the forty-first Congress, viz: the 129 votes cast at poll 1, (see return in evidence, part 2, p. 601,) and the 82 votes cast at poll 8, (see return in evidence, part 2, p. 602,) were cast for Mr. Sheldon to fill a vacancy in fortieth Congress, and not for member of the forty-first Congress; and the said 211 votes being deducted from 1,542, as put down in Mr. Hunt's brief, make the true number of votes received by Mr. Sheldon in parish of Terre Bonne for member of the forty-first Congress 1,331, as stated by the undersigned. And now, to show that in no event of the election in the parish of Jefferson and the five wards of the city of New Orleans would Mr. Sheldon have received a majority of the votes cast in the district for member of the forty-first Congress, but that the result in the district would still be, as shown by the returns of the election, a majority for Mr. Hunt, I confidently invite attention to the following statement:

Total number (in evidence) of registered electors in the parish of Jefferson and the five wards of New Orleans wherein alone intimidation is alleged to have prevailed.....	26, 313
Deduct total number (in evidence) of votes cast in said parish and wards, viz, Hunt 14,758, Sheldon 797.....	15, 555

And we have, as the number of registered electors not voting by reason of death, sickness, absence, business, advice, indifference, and intimidation, and all of whom, if voting, let it be assumed, would have voted for Mr. Sheldon.....	10, 758
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The following summing up will then show the result in the district :

	Hunt.	Sheldon.
In the five parishes of St. Charles, St. John Baptist, St. James, La Fourche, and Terre Bonne, in which it is conceded there was a fair election, the votes were.....	4, 582	7, 717
In the parish of Jefferson and the five wards of New Orleans, where it is alleged intimidation prevailed.....	14, 758	797
Number not voting in said parish and wards, as before shown, all conceded to Mr. Sheldon.....		10, 758
Total.....	19, 340	19, 272

Showing, notwithstanding the concession to Mr. Sheldon of the entire number of non-voters in the parish of Jefferson and the five wards of New Orleans, that Mr. Hunt still would have a majority in the district. Thus it is conclusively shown that the electors in the parish of Jefferson and the five wards of New Orleans, who it is alleged were prevented from voting, do not constitute a number sufficient, if they had voted, to change the result of the election in the district as shown by the returns thereof, and consequently under the rule aforesaid and decisions of the House, it is impossible in fact, and would be grossly unjust in law to the 15,555 legal electors who did vote in the parish of Jefferson and the five wards of New Orleans (more than half of the entire number voting in the whole district) to deprive them of a voice in the selection of their representative in this House.

If we go to the figures involved in this contest, it will be seen that the number of registered electors in the whole district is 39,860, and the number of said electors who voted at the election was 27,854, seventy per cent. of the registry; and further, that the number of registered electors in the parish of Jefferson and the five wards of New Orleans was 26,313, very nearly two-thirds of the registry of the whole district, and the number of said registered electors in the parish of Jefferson and the five wards of New Orleans who voted was 15,555, about sixty per cent. of the registry, and largely exceeding the number of votes cast in the remainder of the district.

Now what will these figures prove in connection with the proposed voidance of the election in the parish of Jefferson and the five wards of New Orleans? They will prove (if to keep Mr. Sheldon in the seat, for which he received only 8,514 votes out of 27,854 votes cast at the election, the House shall adopt the proposition of the majority of the committee and avoid the election in the said parish and wards) that 15,555 of the legal electors in said parish and wards will be denied their elective right because 12,299 other electors of said parish and wards did not vote; they will prove that only 13,547 electors out of a registry of 39,860 electors in the district were permitted to take part or have a voice in the

selection of a representative for the district in this House; and they will prove that a minority of the votes legally cast at an election is, in the judgment of the House, competent to elect a representative for the majority. Yes, all these monstrous deviations from well-settled rules of law, uniform precedents, and republican government, will be clearly shown by the figures, to follow the adoption of the proposition of the majority of the committee.

But the testimony, fairly and judicially considered, fails to justify the rejection of the vote of the parish of Jefferson. There were some disturbances in that parish prior to the election and during the political canvass, but they were not of an extraordinary character either in extent or incidents. A few persons were injured, and a few outrages were committed of a violent nature. The evidence, however, shows that on the day of the election, and for several days before, order and peace prevailed, and that the election was legally and peacefully conducted, and the returns so far regularly made that they cannot be legally rejected for informality, and that a great part of the disorder and insubordination which did exist in that parish during that period arose out of conflicts between the authorities thereof and the governor of the State and other officers claiming the right to exercise certain jurisdiction therein, and were not distinctly or chiefly political in their character.

In respect to the legal technicality urged by Mr. Sheldon and presented by the majority of the committee as one of the grounds of his right to the seat, viz., that as he was admitted to the seat subject only to a contest according to law, no person has a right to contest the seat, because he has never received any notice of contest within the time required by the law of 1851. The answer to such special pleading is, that Mr. Hunt's right to contest the seat does not now depend upon technical conformity to the law of 1851. The House resolution of 7th April not only authorizes it, but from the moment of its passage became the law and the rule under which the contest should be tried, and Mr. Hunt has complied with its requirements, and therefore is contesting according to law. The House has fallen back upon its constitutional prerogative of judging of the election and qualification of its own members, and has taken the contest out of the hands of the parties, and commenced the case *de novo*. Mr. Sheldon has admitted the new status of the contest by filing his statement of the grounds of his claim, in obedience to the requirements of the resolution. Under that resolution he was admitted on *prima facie* right to take his seat, subject to any contest against him according to law; and Mr. Hunt, having conformed to the requirements of the House resolution, is now contesting his right to the seat in accordance with law.

I am prevented by lack of time from further considering in this report the general condition of society in the district during the canvass that preceded the election, and I therefore defer further reference thereto until the case comes up for consideration in the House.

In conclusion, I offer the following resolutions as substitutes for those of the majority:

Resolved, That Lionel A. Sheldon is not entitled to a seat as a representative in the forty-first Congress from the second district of Louisiana.

Resolved, That Caleb S. Hunt is entitled to a seat in this House as a representative from the second district of the State of Louisiana.

M. C. KERR.

R. R. BUTLER.

MARCH 16, 1870.—Ordered to be printed.

Mr. STOUGHTON, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, who were authorized, by the resolutions of the House of Representatives of the 4th day of February, 1870, and March 1st, 1870, to inquire into the alleged sale of appointments to the Military and Naval academies by members of this Congress, respectfully submit the following report :

The committee have taken the testimony of a number of witnesses in the case of Hon. Roderick R. Butler, a member of this house from the first district of Tennessee, which testimony, together with the statement of Mr. Butler in his own defense, is herewith submitted.

The committee have carefully considered the evidence, and, although there is some apparent conflict, have arrived at the following conclusions :

1st. That on the 27th day of February, 1869, the said Roderick R. Butler recommended the appointment of Augustus C. Tyler, son of General Daniel Tyler, late of the United States Army, as a cadet at West Point Military Academy.

2d. That said Augustus C. Tyler was not a resident of the first congressional district of Tennessee.

3d. That after said appointment was made an agent or attorney of General Tyler gave to Mr. Butler the sum of \$900, which said Butler received with the avowed intention of using the same for political purposes in the State of Tennessee.

The committee are of the opinion that the conduct of the said Roderick R. Butler, in appointing a non-resident of his district, and in subsequently accepting money from General Tyler, deserves the condemnation of this house.

The undersigned members of the committee recommend the adoption of the following resolution, viz :

Resolved, That this house declares its condemnation of the action of Hon. Roderick R. Butler, a representative from the first district of Tennessee, in nominating Augustus C. Tyler, who was not an actual resident of his district, as a cadet at the Military Academy at West Point, and in subsequently receiving money from the father of said cadet for political purposes in Tennessee, as an unauthorized and dangerous practice.

WM. L. STOUGHTON.
JAS. S. NEGLEY.
JASPER PACKARD.
J. F. ASPER.

The undersigned members of the committee recommend the adoption of the following resolution, viz:

Resolved, That Roderick R. Butler, a representative in Congress from the first congressional district of Tennessee, be, and he is hereby, expelled from his seat as a member of this house.

JOHN A. LOGAN.

AMASA COBB.

GEORGE W. MORGAN.

H. W. SLOCUM.

Copy of nomination of Augustus C. Tyler.

WASHINGTON, D. C., February 27, 1869.

I nominate Augustus C. Tyler, of Taylorsville, in the county of Johnson, and State of Tennessee, as a suitable person to fill the cadet vacancy in the first congressional district of that State. His age is seventeen years and one month.

Very respectfully,

R. R. BUTLER.

THE SECRETARY OF WAR.

Please send all communications for him, relative to this appointment, to my care, House of Representatives.

R. R. BUTLER.

WASHINGTON, February 17, 1870.

A. SCHOEPFE sworn and examined.

To the CHAIRMAN:

I am forty-nine years old; my residence is Washington; I am principal examiner in the Patent Office. I was connected with the procuring of a cadetship to West Point for the son of General Tyler; the general was an intimate friend of mine, and wrote to me to know if I could not do something in behalf of his son toward getting him a cadetship; I tried for several months without success; then I met General Este and asked him if he had any friends here in Congress through whom the appointment could be obtained. He looked about, and by and by told me that Mr. Butler, of Tennessee, had an appointment which could be obtained for some worthy young man, as there was no applicant from his own district eligible to it. I didn't see Mr. Butler; never saw him till four or five months after the appointment was made. Well, the young man went to West Point and was rejected just on a single, insignificant question; that was made the pretext for his rejection, that was all; the real reason was, that he had been for so short a time a resident of Tennessee. General Tyler was very much embarrassed and mortified, and again asked me to interfere in his behalf. I procured the assistance of other friends of General Tyler, and we obtained from the President an order that the young man be re-examined; he was re-examined, and this time was admitted.

I do not myself know anything about the payment of any money to Mr. Butler; General Tyler had told me that he was willing to do anything in his power, or go to any expense, to get his son an appointment; there was money paid, however, to get the appointment; General Tyler gave me the money, and I gave it to General Este; the amount I paid to General Este was fifteen hundred dollars; I took no money for my own services; I did all I did out of anxiety to serve an old friend; I understood the money was to go to Tennessee, to be used for election purposes—to support some newspapers that were in a needy and precarious condition; I do not know why he was to do this, whether from love for the party or for what reason; I never spoke with him upon the subject, but I understood this from General Este. General Tyler's understanding was that the money he furnished me was to be used in obtaining the appointment for his son. I do not know that he knew beforehand exactly in what way it was to be used; but he said to me, in general terms, he was willing to do anything he possibly could to get his son appointed; I wrote to him it could not be done unless he furnished this money; I once wrote to him that \$1,100 would be sufficient; but I found out afterward it would cost \$1,500, and I wrote and told him so; I paid the money to General Este because he had secured the appointment of General Tyler's son to a cadetship. I understood beforehand that if the appointment could be procured the means would be forthcoming.

NOTE.—Witness afterward appeared and stated that he desired to correct his testimony; that the amount he received and paid to General Este was \$2,300 instead of \$1,500.

WASHINGTON, February 21, 1870.

DANIEL TYLER SWORN and examined.

By the CHAIRMAN:

Question. State your age, residence, and occupation.—Answer. I am 71 years old. Since the commencement of the war I have had no residence; I have been in Florida, South Carolina, and other States. I am boarding from hotel to hotel, spending my Summers at the North and my Winters at the South. I pay taxes in Connecticut, New Jersey, Pennsylvania, and New York. I have had a residence in Connecticut until the war commenced. After the war was over I bought a place in New Jersey, and lived there until about two years ago; since then I have been a traveler.

Q. What is your occupation?—A. I was an engineer for many years. I graduated at West Point in 1819. I was for quite a number of years in the army—until 1835.

Q. Are you connected now with the army?—A. I am not; I was connected with the army from the beginning of the war until near the close of it.

Q. Were you born in the United States?—A. Yes; I was born in Connecticut. The last vote that I gave was in New Jersey. That was at the last election of Mr. Lincoln.

Q. It is in evidence here that your son was appointed to West Point by Mr. Butler, of Tennessee, and it is further in evidence that you paid an amount of money for that appointment; I wish you to state if that is true, and if so, how much money you did pay and to whom you paid it.—A. The amount paid, I think, was in the neighborhood of \$2,000. I should rather think it was under that. It was in a draft on New York. The money was given to General Schoepfe, a friend of mine here, and that was the last I ever saw of it.

Q. What is your son's name?—A. Augustus C. Tyler.

Q. Was he appointed?—A. Yes; and he is at West Point now.

Q. Are you acquainted with Mr. Butler?—A. I did not know him; I would not know him now if I were to see him.

Q. State how you came to pay this money to General Schoepfe.—A. The circumstances were these: I had the promise of a cadet appointment at large for my son from the last President of the United States. I came on here expecting to receive that appointment, but at last it was denied. There were some pledges that had been forgotten, and that were made before the promise to me, and probably to persons that had more claims than I had. At all events, I did not succeed in getting the warrant. My son had been expecting to go to West Point. General Schoepfe, an old friend of mine, who had served with me in the army, and who had been trying to get the appointment for my son through the President and Mr. Cooper, his private secretary, (for we both knew the President personally,) said to me, "I do not think you need despair; I think you can get the appointment here." I asked how, and he mentioned the means.

Q. What were they?—A. By paying money. He said that these appointments were offered here for money, and that he thought he could get one. On consulting with some of my friends who I thought were capable of judging, they said that the thing was not uncommon, and I concluded to suffer General Schoepfe to get the appointment in that way.

Q. What friends did you consult with?—A. I talked with a number of my army friends.

Q. Tell us their names.—A. General Upton, I think, was one. We talked it over.

Q. Did you talk with anybody in the War Department?—A. Yes; I talked with the Secretary of War—General Schofield.

Q. What did he advise you to do?—A. He did not advise me.

Q. What did he say?—A. He acknowledged that there were a good many irregularities going on in the way of making these appointments.

Q. Did you tell him what the proposition was?—A. No, sir; I only supposed a case.

Q. What case did you suppose?—A. I supposed the case of a young man not living in the district. I did not suppose the case of giving any money for an appointment.

Q. Did you talk with anybody else there?—A. I do not think I did at the War Department.

By Mr. ASPER:

Q. From what source did you get the information that these appointments were generally sold?—A. I was told so four years ago by the professor of a collegiate institute in New York. He told me that he had bought a warrant five years before. It is a thing that has been known by every officer connected with the army for years.

Q. That appointments could be purchased?—A. That they could be got out of the districts.

By the CHAIRMAN:

Q. What did you mean by saying that this thing was known to officers of the army?—A. I mean that the military people connected with the government have known that this thing has been going on.

Q. Did you know of any such case yourself?—A. Not within my own knowledge; merely from rumor.

By Mr. HOGE :

Q. Did that professor in New York state to you the name of the district from which he had bought an appointment?—A. He did not. It was a mere observation of his made in connection with putting my boy into his school.

By the CHAIRMAN :

Q. Do you know what district your boy was nominated from?—A. A district in Middle Tennessee. I think it was the second or the fourth congressional district. The boy went out to Tennessee to obtain a residence there; and if it had been necessary, I should have gone there myself six months before.

By Mr. ASPER :

Q. Did you talk with any person about the War Department, other than the Secretary of War, in reference to the matter?—A. I do not think I did.

Q. Did you talk with General Schoepfe about the business?—A. Oh, yes; I talked with him about it.

Q. Did you converse with him in regard to what was necessary to be done?—A. Yes.

Q. And you gave him the full authority to negotiate for you?—A. Yes.

By Mr. WITCHER :

Q. When you speak of officers of the army being aware of the fact, do you mean any particular officers?—A. No; I mean that it was a general understanding in the army that these appointments are given in that way.

By Mr. ASPER :

Q. Were they not given as a matter of favor toward army officers themselves, to get the sons of favorite officers in the academy?—A. I do not know how that may be. I suppose that some personal consideration operated in particular cases; but I do not think that the officers of the army, or the professors at West Point, are very much in favor of it. My son was rejected at the examination for grammar. They asked him, when he went there, what district he came from, from where he was appointed, and where he was born. He told all the facts—that he was born in Connecticut, and was appointed from Tennessee, and that he had been in the district only three days. He stated that to the board of academic staff. After the boy had been rejected the President ordered a re-examination of him, and he then passed.

By the CHAIRMAN :

Q. General Grant had no knowledge of the transaction when he ordered the re-examination?—A. He knew that my son was appointed from that district in Tennessee.

Q. But he had no knowledge of the manner of his appointment?—A. Oh, no; I presume not.

By Mr. PACKARD :

Q. In alluding to this mode of appointing, did you mean appointments for money, or irregularities in appointing boys from other districts?—A. I mean irregularities in appointing boys from other districts.

By the CHAIRMAN :

Q. Be as definite as possible about the amount that you paid. The amount as stated here by General Schoepfe and by yourself differs.—A. It was in the neighborhood of \$2,000; but whether above or below that amount I cannot tell. It did not vary far from \$2,000.

Q. State whether it was paid before or after the appointment was made.—A. It was not paid until after the appointment was in General Schoepfe's hand. He had the draft, I think, the day before, but substantially it was not intended to be paid until the appointment was made. There was some talk about service in the political campaign, and all that kind of thing, which I had nothing to do with.

CHARLESTON, *March 5, 1870.*

I regret I had not seen Mr. Butler's testimony before I left Washington, as I think he is mistaken in connecting General Schofield, as he does, with my son's appointment at West Point.

I never supposed General Schofield to have solicited the nomination, nor did I ever know or believe he ever expressed to Mr. Butler, or any one else, any desire or anxiety to have the nomination made, although Mr. Butler's testimony, as published, looks as if this was the fact, as he understands it. So far as I know, my son's name was never mentioned to General Schofield; and when I stated the case as I did, General Scho-

field evidently understood what I wanted to know, but not for whose benefit I wanted the information, and he had no information from me by which he could properly connect my son's name with a cadet's appointment. The whole case is as follows, viz:

After the appointment of my son was signed, and in the hands of my friend, General Schoepfe, and before any payment was made, I called at General Schofield's house, and apologized for calling there by stating that it was a personal matter, and I then went on and supposed a case similar to that of my son, but giving no name, and the general, evidently understanding the matter, replied: "Oh, you want to know if you can colonize a cadet?" and I answered, "Yes, general; that is exactly what I want to know." General Schofield then went on to say that after the commencement of the rebellion the vacancies at West Point from the rebel States had been filled from the loyal States, and that continuing this practice since the termination of the rebellion, appointments had been made for the reconstructed States contrary to the letter of the law, and that these irregularities had been acquiesced in, and that under these circumstances, the appointment itself made on the nomination of a member of Congress, who was presumed to know the law, was *prima facie* evidence of its correctness, and he did not see how the academic staff, or the inspector of the academy, could go behind it, and question its validity. This was the substance of my conversation with General Schofield, and no reference to purchase, or any extra inducement was referred to, in order to secure the nomination. If General Schofield expressed to Mr. Butler, or any one else, a desire that my son should be nominated for Mr. Butler's district, which I very much doubt, I can only attribute it to his desire to gratify an old fellow-graduate, who left the Military Academy before General Schofield was born.

I communicate the above in justice to General Schofield, and have, at the request of Mr. Butler, communicated very nearly the same to him, and I desire this testimony may be used in order that justice may be awarded to all parties interested in the transaction.

With great respect, your obedient servant,

DAN. TYLER.

Major General LOGAN,

Chairman Military Committee, House of Representatives, Washington.

Personally appeared before me Daniel Tyler, who makes oath that the within statement is just and true, according to his just belief.

E. J. DAWSON, N. P. C. C.

GEORGE P. ESTE sworn and examined.

By the CHAIRMAN:

Question. State your occupation, age, and place of residence.—Answer. I am a lawyer; age, forty years; residence, Ohio.

Q. If you know of any negotiation or arrangement made by which any cadetships at West Point or Annapolis were sold, bartered, bargained for, or anything of the sort, state it to the committee.—A. Well, I do know of a case where an appointment was made, so far as I understood the matter, for a pecuniary consideration. It was a case where an appointment was made outside of the locality of the appointee. A late officer of the army had written to Washington, very earnestly and anxiously, in reference to getting his son appointed; but the appointment for his congressional district had been made. As the father was an old army officer, it was thought no more than right that the boy should be got in if he could. I think one trouble was that the boy was two or three months too old. The question was raised, and I was asked for my legal opinion as to whether the boy could be appointed from a district in which he did not reside, or had not formerly resided. I gave my opinion that it could not be legally done. The old general expressed a very strong desire that his boy should have the appointment, no matter at what expense. I think it was finally arranged in this way: There were one or two papers in Tennessee that were not on very good footing financially; and as there was no candidate from that congressional district, this boy was appointed, and the father advanced some money to help along those papers.

Q. Who was the applicant?—A. General Tyler, of New Jersey.

Q. Who was the congressman that secured his appointment?—A. Mr. Butler, of Tennessee.

Q. Were the negotiations made through you?—A. Well, not altogether. I was informed that Butler had a vacancy that could be had, and so wrote to the gentleman representing Mr. Tyler.

Q. Who was that gentleman?—A. General Schoepfe; I think he is one of the examiners in the Patent Office.

Q. Do you know whether any money was actually paid by Mr. Tyler?—A. I have every reason to believe there was.

Q. What reasons have you for believing so?—A. I think some money passed through my hands.

Q. How much?—A. I think it was about \$1,000.

Q. To whom did you pay it?—A. I paid it to Mr. Butler himself. I will not be certain as to the exact amount, but it was not far either way from \$1,000; it may have been more; I don't know whether anybody else paid him any.

Q. And the appointment was made by Mr. Butler in consideration of the \$1,000 you paid him?—A. I do not know that I have any right to swear that it was made in consideration of that. I had had a conversation or two with Mr. Butler before the money part of the matter was broached, and urged upon him, if he had no application in his own district, to appoint this young man. I took considerable interest in the matter, and so did General Schofield. I had given my opinion that the appointment would not be legal, unless the young man should remove to Mr. Butler's district and obtain a residence there; but his father said he was willing to do that for the sake of getting the appointment. The young man was very intelligent and bright, and I believed would have done credit to any man making the appointment; I remember that Butler said the same thing, speaking very favorably of him. Whether the money induced Butler to make the appointment, or whether he would have made it anyway, had he received no money, of course I cannot say.

Q. Was the money paid over to Mr. Butler before or after the appointment was made?—A. I cannot say which. The one event succeeded the other very closely, I know. I got the money, I think, from General Schoepfe; I know he was acting directly for General Tyler; I can say this much for certain, I gave to Mr. Butler somewhere about \$1,000 that came from General Tyler.

Q. Do you know whether any other parties received anything for their services in connection with the matter?—A. Well, I wrote a regular legal opinion, and bothered myself about it a good deal in one way and another, and I received something, exactly how much I cannot say. At first, I went about the matter voluntarily, and without charge; but then there came up a question of law as to locality, and a question of law as to age, and I had to give a legal opinion, and do a great deal more in connection with the matter than I had at first contemplated, and I received some compensation; as I said before, I have forgotten exactly how much, for my legal services.

Q. Was it to West Point that this young man was sent?—A. I think it was to Annapolis; it could be easily discovered by looking at the list of students.

Q. What part did General Schofield take in these negotiations?—A. He talked in favor of the young man to Butler; I never understood that he had any interest in the matter, further than that he was acquainted with the old gentleman.

Q. Do you know of any other cases where money was taken for making appointments?—A. O, no; I wish it understood that I never engaged in any general brokerage business of this kind. In this instance, I became interested in the young man and his father; I went to Garfield and Stevens, to see if they knew of any vacancies, and got a list of vacancies from General Schofield; I found several, and was introduced to two or three representatives from the Southern States, but nothing came of it; then I found that Butler had this appointment, that could be obtained, for a consideration, and since I had taken hold of the matter, I thought I would put it through. That is all the experience I have ever had in this line of business.

WASHINGTON, February 25, 1870.

GEORGE P. ESTE recalled.

Question. Who introduced you to Mr. Butler?—Answer. I think General Garfield did.

Q. Where did that introduction take place?—A. In the House, or in one of the corridors.

Q. Was it at your request?—A. Yes, sir; it was at my request. I did not know Mr. Butler, and I requested General Garfield to introduce me.

Q. What was your object in seeking the interview?—A. My object was to talk to Mr. Butler in regard to the vacancy which I had learned from the list that I had received from the War Department was in his district.

Q. Do you remember the statements that you made to Mr. Butler in that interview?—A. I cannot state them, of course, *seriatim*, except the general import of them. I asked him whether he did not have a vacancy at his disposal, and whether he had decided to give it to any one. Upon discovering that he had a vacancy, and that he had not decided to give it to any one, I said to him that I was very anxious to procure an appointment for the son of General Tyler.

Q. Did you not tell him that you were informed by the Secretary of War that there was a vacancy in his district?—A. I may have stated that; I cannot say precisely; I had learned the fact, however, from the list of vacancies which the Secretary of War was kind enough to give me.

Q. Was there anything said in that interview as to any consideration for the appointment?—A. Not a word. I extolled the merits of the young man and the character of his father, who was an old officer in the army.

Q. Did you ever at any time make any proposition to Mr. Butler to pay him for the

appointment?—A. Not for the appointment; not until after I understood that the appointment was agreed upon by him. After speaking of the merits of this young man and of the position of his father, and that he had a great many friends who would be very much gratified at the appointment, which would be a credit to Mr. Butler's own district, (as I understood the young man had been prepared in his course of studies for several years with a view especially to go to West Point,) I remember that during the conversation Mr. Butler raised the question of the legality of an appointment where the party appointed had not been a resident of the district; and I remember stating to Mr. Butler that I had examined that question quite fully, and was satisfied myself that the appointment was legal, provided the appointee would become a resident of the district. I also remember saying to him in that conversation that, to satisfy his own mind, he should go to General Schofield, in the War Department, and there learn the opinion of the War Department upon that subject. I think that that was about all that occurred about that time.

Q. Was anything at all said about pay until long after the appointment was made?—

A. I will tell you all that occurred in regard to the whole subject.

Q. You stated in your previous testimony that the appointment was made by Mr. Butler in consideration of \$1,000 paid by you; do you mean to let that stand?—

A. No, sir; that was the use of a wrong word in a wrong place. I had forgotten all about the matter at the time, and it is easy to understand how a wrong expression might be easily used. It is my own experience as a lawyer that very few people will measure their language as they ought to do in giving testimony. The fact about it is simply this, that, after I left Mr. Butler to make that inquiry, I saw him again, perhaps at his house, or I saw him casually at the Capitol, and I think that all that passed between us was that I asked him whether he had seen the Secretary of War, and I think he said he had. I think I saw him at the House afterward, and he suggested to me that, while he was satisfied he could make the appointment, provided the young man would make his residence in his district, he wanted some assurance that he would do so. I then undertook to get the assurance through the friends of General Tyler. I informed General Schoepfe that Mr. Butler desired to have an assurance that young Tyler should go to his district immediately or soon, and I asked General Schoepfe to procure that assent from General Tyler. Then Mr. Butler, I am sure, informed me that he would be willing to make the appointment, and I took it that the appointment was agreed upon, and so informed, I think, General Schoepfe, in order that he might inform General Tyler that the appointment was made, or would be made; that Mr. Butler had agreed to make it. After that I myself suggested to General Schoepfe that General Tyler ought to make a handsome present to Mr. Butler. He said there would be no question about that; that General Tyler had authorized him to say in the very beginning (and I think he informed me perhaps at the very first interview I had with him) that General Tyler was so anxious about it that considerations were no object, and that anything I might ask I could have. I said to General Schoepfe in reply to that, "General, I am not doing this for General Tyler; I am doing it for you as a friend. I would not undertake to do anything of this sort for anybody except as a matter of personal friendship; it is out of my line, I am not in that business." General Schoepfe said something to me in reference to the propriety of it, but I said we would not discuss that point then, and that I doubted anyway whether the appointment could be made; that I doubted very much whether the appointment was legal, and that, prior to making any effort about it, I should first inform myself upon that point; which I did by my own examination, and also by conversations with General Schofield in the War Department, and with other people as to what had been the practice. It was upon my own motion, and knowing that General Tyler would be only too glad to make any recognition of it, that I did suggest to Mr. Butler the propriety of his permitting me to give him a certain sum of money, more or less, (I do not know what it was.) We had perhaps some talk in regard to the condition of the proposed canvass, or something of that sort. The main point with me was that I understood Mr. Butler was representing Mr. Johnson's old district, and that Mr. Johnson would be coming back one of those days, and I think that perhaps I alluded to the fact that he would have Andy back on him.

Q. Did you have reference to the campaign then going on in Tennessee?—A. I do not recollect the fact whether there was a campaign going on or not. I think he mentioned the fact that there were two papers in his district in a very bad condition and that required support. I had no conversation directly or indirectly with General Tyler; I communicated this to General Schoepfe who was acting as General Tyler's friend.

Q. When you paid over this money, was it with the understanding that it was for Mr. Butler himself, or for campaign expenses?—A. I will say that, so far as I was concerned, I felt like this—that Mr. Butler did a very kind and generous thing, and that it was the duty of General Tyler to recognize it. Mr. Butler said that these things were existing in his district, and I proposed to him myself to take it for that purpose. I remember his saying in that conversation, "General, I do not know; I cannot take this for myself."

Q. How long was it after the appointment was made before you gave him the money?—A. I cannot say. This was a matter running through two or three weeks from the beginning, and as to the exact time occurring between these different things I cannot state. I am satisfied, the more I have thought of it, that the money was paid after I understood that the appointment was made, and had so informed General Schoepfe.

Q. Was it some ten or fifteen days after?—A. Oh, no, not so long as that; I think it was very soon after; but it was after I had Mr. Butler's promise that the appointment should be made.

Q. You never had, before the appointment was made, proposed to pay Mr. Butler anything for the appointment?—A. No, sir; I never proposed to pay him for the appointment; and I am fortified in that impression by two or three reasons. In the first place, during my investigation of the matter, and before I had made any inquiries about it, except as to the question of practice and of the law, General Schoepfe came to my office one day and said to me that he could get an appointment; and I think he named a sum of money for which he could get it. I told him to have nothing to do with such a thing; to leave it alone. I suppose that in three or four ways it came to my knowledge that such a thing could be had for a consideration. Of course, it made no difference to me, and I did not avail myself of it. This was before the introduction to Mr. Butler, and if I had desired to accomplish my object in that way, I had abundant opportunity; but I did not choose to do it. And a reason, too, why I went to Mr. Butler was that, having heard these rumors, I came to the conclusion, after getting my list of vacancies from the War Department, that, as the members from the extreme Gulf States were generally men new to their districts, and not under obligations to their constituents, such as we have ordinarily to recognize, and as Mr. Butler had a vacancy from an old State, where I understood he was brought up, I thought it possible that he was a little higher toned than gentlemen from the Gulf States. I had heard, too, that he was a high-toned gentleman. General Garfield had spoken of him to me very highly.

Q. In your interviews with Mr. Butler, did you state to him that it would be a personal favor to the Secretary of War, and that General Tyler was an intimate friend of the Secretary of War?—A. I cannot state as to what I said about its being a personal favor to General Schofield. I alluded to General Schofield, among others, as being a gentleman in close relations, perhaps, with General Tyler, and that it would be a great favor to a large number of gentlemen if it was done. I remember stating the fact, that General Tyler had a great many warm and intimate friends who would be very much gratified at anything that would be done in that way.

Q. Do you recollect saying to him that the Secretary of War said that an appointment made out of the district would be legal?—A. I referred him to General Schofield, and told him not to rely upon my opinion simply, although I had examined the question and had no doubt about it; but I referred himself to General Schofield, to satisfy him.

Q. When you first had an interview with Mr. Butler, did he not say to you that he would do nothing in the matter until he had an interview with the Secretary of War and found out whether or not the appointment could be made?—A. As to that, of course I cannot state the exact language employed by Mr. Butler, but the fact was that I did leave him with the understanding that he was to see General Schofield. Just what he said about it I cannot of course recollect. In expressing to him the opinion that it would be legal, I told him I had examined the question and felt satisfied that the appointment would be a legal one, provided the young man would make his residence in the district. I know that I referred him, to inform himself further, to the Secretary of War, as I myself had learned from him and from others, that that had been the practice of the department for a long time.

Q. Did not Mr. Butler tell you that he had had an interview with the Secretary of War, and that the Secretary informed him that it would be very gratifying to him if the appointment was made?—A. My impression is that he informed me that he had an interview with General Schofield, and I think he informed me that, either from General Schofield or from others, my statements in regard to the matter, and in regard to the character of General Tyler, were more than corroborated. But just from whom he learned it I cannot state. I remember very well his saying something in that connection.

Q. Did General Schoepfe tell you from whom he could procure an appointment for a consideration?—A. He might have done so, but I do not recollect now whether he did or not.

Q. Are you sure as to whether he mentioned Mr. Butler in that connection?—A. Oh, no; he did not mention Mr. Butler in that connection. My own impression is that General Schoepfe never had an interview with Mr. Butler; but whom he had the information from I do not recollect.

Q. When you paid this money to Mr. Butler, did you not propose at that time to give him a thousand dollars, the full amount, and did he not refuse to receive it?—A. I do

not know about that. I do not remember the amount now. I only know that after the appointment was agreed upon and settled, so far as I understand it, I suggested the propriety of General Tyler sending a sum of money, which I intended for Mr. Butler. Whether I mentioned any particular sum or not I do not know. Just precisely all the conversation that took place at that time I do not know, except that there was this general talk in regard to the propriety of his receiving it, coming from me, as a recognition of his doing what I regarded as a very generous action. I intended that Mr. Butler should not go without a proper recognition from General Tyler, although I did not state that to Mr. Butler.

Q. Did you mean it for Mr. Butler individually, or for campaign purposes, and to support the press down there?—A. I felt no personal interest in the press or in the canvass, and I did not care what he did with the money. I felt that it was due to him personally as a recognition of his having done a generous thing. I know that he said in that connection that he would not receive it for himself. He stated that distinctly to me.

Q. Did you have any talk with General Schofield after the appointment was made?—A. I do not recollect. I think General Tyler himself came on.

Q. Can you state the amount of money which you yourself received?—A. I cannot. I do not recollect receiving any money for myself. General Schoepfe proposed to me in the beginning that General Tyler would like to reward me largely for doing anything about it. I told him that I could not do it for any consideration, but as a matter of personal friendship to him, and I should not have started into the thing with the idea of getting anything from anybody. If I remembered the fact of receiving money I would be very glad to state it, but I do not recollect anything about the sum. It was not the principal point in my mind. The point was to get the appointment.

WASHINGTON, *February 24, 1870.*

SAMUEL MILLIGAN sworn and examined.

By the CHAIRMAN:

Question. What is your occupation?—Answer. I am judge of the Court of Claims.

Q. Where do you reside?—A. My home is in Greeneville, East Tennessee.

Q. In Judge Butler's congressional district?—A. Yes, sir.

Q. State what you know in reference to Judge Butler's appointment of a cadet from his district to the Military or Naval Academy of the United States, or any attempt on his part to find some person fitted for the appointment.—A. Some time in March, 1869, Mr. Butler was kind enough to ask me if one of my sons did not desire an appointment, either to West Point or to the Naval Academy. I told him that one of my boys did desire it. He said he would give it to me, and I might select which place I wanted him to go to. I remarked that the boy had selected the Naval Academy, and I would rather conform to his wishes. He accordingly gave me the appointment. He never said anything to me about any compensation; I never gave him anything except many thanks for his kindness. My boy was admitted. At the same time Mr. Butler spoke to me about my boy he asked me if I knew of any young man in my district who desired to go to West Point. I said no. He said that he desired to get a young man to go to West Point; but he had made two appointments and both of them were rejected. He said that if I knew of any sprightly, well-qualified young man fitted for the place, he would give him the appointment. I told him I at that time knew of none. He said perhaps I might think of some after a little. I thought over the matter, but could not recollect any. There were doubtless some well qualified who would not wish to go to West Point, and there were perhaps those who would wish to go to West Point, but were not qualified. The war had broken down all our schools, and four or five years gone out of a young man's education makes a great difference with him. This is the substance of what occurred between us.

WASHINGTON, *February 24, 1870.*

ROBERT A. CRAWFORD sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?—Answer. In Greeneville, Tennessee.

Q. State to the committee anything you may know in regard to any effort on the part of Judge Butler to find some person from his own district to appoint to the Military Academy at West Point, or the Naval Academy at Annapolis.—A. I think it was about the last of March or the first of April, that Judge Butler came to me and said that he wanted to find somebody from his district who would go to West Point. He had an appointment to make, both to West Point and the Naval Academy, and had sent Judge Milligan's son to the Naval Academy. He wanted to know if I could think of any one from his district who was qualified. There had been no one appointed from there for many years. I thought over the matter for a fortnight, but could think of none. We had no schools in that district when the war was going on, and there were

very few young men there, of the proper age, who could have passed such an examination as is required for admission to West Point. We talked over the matter twice, but still could think of no one. I never heard anything further about the matter until now. I recollect I said to Judge Butler, "Why not appoint one of your own sons, since no one else will accept the position?" He said he did not care to have his sons educated at West Point. One of them was not in good health, and to the appointment of the other one there was some other objection. Then I wrote to several young men, but could find none who desired to make application for the position. Judge Butler, I understood, had made two or three appointments, but they had been rejected on account of failing to pass examination. I did the very best I could to procure some one for the position. I was anxious to do so for the honor of our State. During the rebellion we had in East Tennessee very few men qualified for officers, because they had not been educated for the position. I felt that keenly during the war. If we had young men educated at West Point, Tennessee would have had men ready to take a high military position when occasion offered for them to do so. At this time I do not know positively of a single young man in our district of loyal parentage who could stand examination at West Point.

Q. What do you mean by loyal parentage?—A. I mean whose father was loyal.

Q. Would you object to having a boy sent to West Point to be educated, whose father was not loyal?—A. I most certainly should.

Q. Was Judge Butler in the army?—A. Yes, sir.

Q. In which army?—A. The federal army, sir. The 13th Tennessee regiment. Judge Butler always expressed himself strongly in favor of the government.

Q. When was the last congressional election held in Tennessee?—A. It was in November, 1868.

Q. State to the committee Mr. Butler's condition so far as money matters are concerned.—A. I understand that he has a large property; considerable valuable real estate.

WASHINGTON, D. C., *February 24, 1870.*

WILLIAM B. STOKES sworn and examined.

By the CHAIRMAN:

Question. What is your position, and where do you reside?—Answer. I am a member of Congress; I reside in Alexandria, Tennessee.

Q. State anything you may know with reference to any contributions made by Mr. Butler for the benefit of his party, or the newspapers of his party, in Tennessee.—A. I know that Judge Butler contributed \$500 to the support of the State Journal last summer; at least I saw it so stated by the chairman of the State central committee; and he gave me a paper containing the names of the men who had contributed to the State Journal amounts exceeding \$25; among them was Judge Butler's name, and annexed to it was the sum of \$500.

Q. What time was this?—A. Our convention was held about the 20th of May, and this, I should say, was about the middle of June. The Press and Times sold out to the opposition about the 10th of June, and immediately afterward, of course, we got up the other paper, the State Journal.

By Mr. ASPER:

Q. How long after Judge Butler went home last spring?—A. I suppose it was about the middle of June—possibly not until some time in July.

Q. This was the time you saw the list with Judge Butler's name on it?—A. Yes, sir.

Q. When was the payment made?—A. That I do not know.

Q. It stood to him as an individual subscription?—A. Yes, sir.

By the CHAIRMAN:

Q. What was this State Journal?—A. It was the State organ of the republican party in Tennessee.

Q. What time did Judge Butler go from Washington to Tennessee?—A. I understood that he went directly from Washington to the convention of the 20th of May.

(Mr. Butler corroborated this statement.)

Q. At what election was this?—A. It was the general election for governor and State officers. The election for members of Congress had taken place the fall before.

Q. Did you ever have any conversation with Charlie Smith about his son being rejected?—A. No, sir.

WASHINGTON, *March 7, 1870.*

H. W. DURGIN sworn and examined.

By Mr. BUTLER:

Question. State when it was that you came here last spring, with the president of the East Tennessee and Virginia and East Tennessee and Georgia railroads?—Answer.

We reached here on the evening of the 27th of February, about dark. I knew that it was about that time from my own memory; and yesterday I examined the hotel register and found it as I have stated. I registered the party myself, in my own handwriting.

Q. State the occasion of your coming to Washington at that time.—A. About that time Mr. Calloway, president of the East Tennessee and Virginia and East Tennessee and Georgia railroads, was in correspondence with you in relation to those railroads, and their connection with the government; I do not remember the exact date, but it was previous to our coming.

Q. Please state whether, immediately upon your arrival here, I did not inform you that I had seen General Schofield and had arranged matters satisfactorily.—A. Something to that effect; I cannot say exactly the character of the communication, but we understood from you that the matter stood favorably with the War Department; I cannot remember the exact status of the matter, but that was the general effect of it. I think you saw us on the evening we arrived here; possibly, however, not until the next morning. I understood that from your conversation, which was more with Mr. Calloway than with me.

By Mr. LOGAN:

Q. One question was omitted. State your age, residence, and occupation.—A. I am thirty years of age; I reside in Tennessee; am engaged in the railroad business.

WASHINGTON, *March 2, 1870.*

E. A. SAWYER sworn and examined.

By Mr. BUTLER:

Question. State your age and residence.—Answer. My age is forty-eight years; I reside in Tennessee, Jefferson County.

Q. State what took place last spring in relation to certain money received by me for the benefit of the party in that State.—A. Some time about last March I went to Judge Butler's room one day; on going in he introduced me to a gentleman by the name of Este; I would not know him now if I should see him. He went out just as I went in. I noticed there was some money lying on the table—a roll of bills; I said, "I have come just in good time; I want some money; I guess I had better grab it now," and I put my hands on the money. Judge Butler said that was not his money. I said I wanted twenty dollars for Dr. Hamilton of Georgia; he said he could let me have some money, but not that; he asked me if I wanted any more than twenty dollars. I said, "No; twenty dollars is all I want." He said that money was not his; that the man who had just left the room, Mr. Este, had fetched it from somebody in New York, to be used in starting a paper at Morristown. I said no more; I got my own money and just left. The judge went into his room and got the money which he gave me from a chest. He did not get it from the roll of money on the table; he said that was not his. That is all I know about the matter.

By Mr. HOGE:

Q. Who was present beside Mr. Este?—A. I do not know.

Q. About what time in March was this?—A. Near the middle, I should say.

WASHINGTON, *March 2, 1870.*

WILLIAM SPENCE sworn and examined:

By Mr. BUTLER:

Question. State your residence and occupation.—Answer. I reside in Murfreesboro, Tennessee; I was formerly a trader, but at present I am engaged in farming.

Q. Tell the committee all you recollect in relation to the matter of certain money being left with me for the benefit of the party and the newspapers in our State.—A. Is what I am going to say to be taken down?

Q. Yes, sir.—A. I want to state, before saying anything on that subject, that my memory is not very good—my recollection in regard to this matter at any rate—and any statement I may make I wish understood to be as much from what Mr. Sawyer has said in conversation since as from any recollection I have myself. With this explanation I will state to the committee this: I was at Judge Butler's room one evening, the last of March or the first of April, I cannot say the exact date, when a gentleman came in, whom I did not know—I had never seen him before and I have never seen him since—and said he wanted to see Mr. Butler on private business. Mr. Butler told him that we were all friends, and whatever he had to say he could talk it out. This man then mentioned that he had a sum of money that he wanted to let Mr. Butler have, or to leave with him. I do not recollect that he said what the money was for; if he did my memory does not serve me now; at any rate, I remember Mr. Butler did not want to receive the money. I said, "Goodness alive, if I could get a chance to

take any money I would take it." That is, I meant, of course, if it was money that it was right for me to have. I understood in some way that it was for use in connection with our election. I said the party was very poor, and we ought to take all the money we could get, and get all we could. I did not know for what particular purpose the money was brought to Mr. Butler, but had a general understanding that it was intended to help us out in our election.

Q. State to the committee whether I took the money at all.—A. No, sir; my recollection is, that there was considerable conversation about the matter, and Judge Butler declared that he would not have the money. I insisted that he should take it. The gentleman that brought it spoke as if *he* ought to have some of it. I told him if he had any right to any of the money he ought to have taken it out before handing it to Mr. Butler. I did not dream of its being connected with anything illegal; it was a matter very common and usual for money to be given in that way for election purposes while we were getting Tennessee all right. President Johnson one time telegraphed to me at Memphis to send him \$5,000, or our paper would go down. I sent the \$5,000 immediately. I got \$3,500 of it back. After Johnson got to be President, and went back on us, as we considered it, the paper did go down; the press was sold, and I got \$3,500 of my money back. I thought this money was some that had come in some such way; the party needed assistance, and was sending to friends in other places for money, and I supposed this had come for that purpose. My recollection is that the gentleman did not give it to Mr. Butler but put it down on the table and left it. Mr. Butler insisted that he would not take it. I told Mr. Butler that if he would not take it I would. I do not think he counted the money. I do not remember whether I counted the money. I think I handed the hundred dollars to the man who brought it.

Q. State what I said as to where the money came from.—A. I do not think I can state particularly; I understood this much, that it was not his own money; he said it came from somebody up in New York, or New Jersey, or some place up there, but the gentleman's name I do not remember; it seemed to be for favors that Judge Butler had done for these parties, which it was perfectly right for him to do, and they in return were willing to do something for the Union cause. I do not remember that the conversation went to show what particular thing it was that had been done. I think Mr. Butler objected to taking the money on the ground that it might be construed that he was taking pay for things he ought not to do.

Q. Did I not state that I had appointed General Tyler's son to a cadetship, at the instance of the Secretary of War, and would not take the money lest it might be construed that I had taken pay for making that appointment?—A. I think very likely; I know you expressed a fear lest if you had anything to do with that money it would be construed that you had taken it for some wrong purpose.

Q. State whether, when this man complained about not being paid for his trouble, I did or did not tell him he had better keep all the money.—A. I think you did; and I think I rather objected to that. I recollect when he said he had been at a good deal of trouble, you replied that he had better take it all then—that it was not for your benefit; that is about the language you used.

Q. Had you been drinking then, or were you sober?—A. Well, I had been drinking.

By Mr. LOGAN:

Q. Do you know who this man was that left the money?—A. I had never seen him before that time, and I have never seen him since; he was a tolerably large man; he was introduced to me as "General" somebody.

Q. Este?—A. Yes; that is the name.

Q. What was said about that money after he left the room?—A. After he left, or just before, I forget which, Mr. Sawyer came in and wanted to borrow some money; he saw that roll of bills on the table, and said he had come just in good time, and grabbed hold of the money; I told him to take what he wanted; but Butler said, "Don't take that; it don't belong to me; it is intended for other uses." Mr. Butler then went back into another room, and got some other money and let Mr. Sawyer have it.

Q. How long did General Este stay after Mr. Sawyer came in?—A. That I do not recollect.

By Mr. BUTLER:

Q. After General Este went out did I not say I was very sorry that you took the money—I would rather you would have given it back to him?—A. There was a good deal of conversation about the money; but what it was I do not remember distinctly.

Q. What was done with the money?—A. After a while you rolled the money up and laid it away. But before that, you wanted me to take the money, and I would not. Then you rolled it up, and said we would meet at Nashville, at the convention, and fix upon some plan to dispose of this money then.

Q. State whether or not I told you to take that money and keep it until the convention convened, and if you said no—that you were on a spree, and if you had the money about you you would spend it; but that I must keep it until the convention met, and

there divide it among the newspapers?—A. That is very like what I would say, but I do not remember what I did say.

Q. How long after the inauguration, according to your memory, did this occurrence take place?—A. It must have been three or four weeks. I think two or three weeks; more probably.

Q. Do you remember the amount of the money?—A. The gentleman said there was a thousand dollars.

Q. Do you remember how much was paid back?—A. O, yes; a hundred dollars; that was what he asked for; I forget whether I picked up the money and handed it to him, or whether he himself took it from the money on the table.

Q. Do you remember insisting on my taking the money?—A. Yes, sir; I recollect that distinctly.

Q. Do you recollect the fact of our newspaper at Nashville being sold out, so we had to start the State Journal there?—A. O, yes, sir; I remember that very well.

By Mr. SLOCUM:

Q. How long have you been in this city?—A. Five weeks; not all the time—I went to Philadelphia and staid four or five days.

Q. Were you here when this investigation commenced?—A. No, sir; I was in Philadelphia.

Q. Were you here when Mr. Butler's case was first brought before the committee?—A. No, sir; I was absent.

Q. What is your business in Washington?—A. My business here is to collect a claim against the government for commissary and quartermaster's stores.

Q. Were you present when the money was brought into Mr. Butler's room?—A. Yes, sir.

Q. And you cannot recall to mind what the money was for?—A. There was a good deal of talk over the matter, I know; but I cannot recollect what the gentleman first said in offering the money.

Q. Do you recollect Mr. Butler's offering him a hundred dollars?—A. The man asked for a hundred dollars.

Q. Did you approve of his taking that?—A. I think I did.

Q. And you cannot tell what he was entitled to it for?—A. No, I cannot.

Q. Where was the money at this time?—A. On the table.

Q. Who finally took it?—A. Mr. Butler rolled it up and put it away.

Q. Did you ever hear any more of it?—A. No more, except that it was to be used for the campaign, and for the benefit of the newspapers. I never thought much more about it any way; I do not know that I ever asked a question about it again.

Q. Had you ever known of money being raised and sent down there in that way before for such purposes?—A. O, yes, often; we have raised money in Washington and Philadelphia and New York, and sent it down there.

Q. It generally came in the shape of contributions, did it not?—A. Yes, sir; but generally some one man would pay it over.

Q. But was it not rather an unusual thing for a thousand dollars to be sent at once in that way?—A. Yes; rather an unusual thing.

Q. Have you had any talk with Judge Butler since?—A. Not at all; that is, not until yesterday.

By Mr. WITCHER:

Q. You say the judge took the money and put it away?—A. Yes, sir.

Q. Did he hesitate when he took the money?—A. Yes, sir. He wanted me to take the money and take it home, but I would not do it; I told him to keep it until the convention met; I said I would not take the money—I did not feel that it would be safe; I refused to take it, and insisted that he should keep it.

By Mr. BUTLER:

Q. When Mr. Sawyer came in did he not say he wanted twenty dollars for Mr. Hamilton, of Georgia?—A. I know he said he wanted it for somebody. I was going to let Sawyer have the money from the roll on the table, but Mr. Butler said he would loan his own money; that that on the table was not his.

Q. After Este left the room did I not say, "I am sorry you took that money; I rather you would not have done it?"—A. My recollection is you were not satisfied, and feared lest some harm might grow out of it.

Q. Did I not want you the next morning to take that money and divide it among the papers?—A. Yes, sir.

Q. And did you not say you were on a spree, and did not feel that it would be safe to carry much money about you?—A. I do not recollect distinctly what I did say; I know you asked me to take it, and I refused.

When I came to the fortieth Congress I was notified that there was a vacancy from my district, both in the Military Academy at West Point and in the Naval Academy at Annapolis. I sent out to the district to my friends to see if they could find some young

men to fill the places. I found that Charles Smith, of Granger County, in my district, had a son, an intelligent boy, who it was thought could undergo an examination, and I nominated him to the Military Academy at West Point. William Galbreath, of Jefferson County, in my district, wrote to me stating he had a son who he would like to have appointed to the Naval Academy at Annapolis. I immediately nominated him for the position. The parents of these two young men took them up to West Point and Annapolis for examination, and they both were rejected by the board because their education was not sufficient. Believing that injustice had been done to them, I went to the War Department and tried to get a re-examination for them, but was informed that that could not be done under any circumstances. I then wrote to every county in my district, to my friends, to find some young men to accept these positions who could pass an examination. I also went to Colonel Crawford in person, who was well acquainted with the people of my district, and asked of him if he knew or could find any young men in my district who would take the positions. Some three weeks afterward he informed me he had made every effort and could not find any one who could undergo the necessary examination. William Harris, of Dandridge, in my district, in answer to my letter making inquiry, wrote me to appoint a son of Henry Harris, and I immediately wrote to send me his name and age, and that I would make the appointment; but in a day or two he wrote me not to appoint him, as he was of bad habits. I received answers to my various letters requesting my friends to find young men for these places, all saying that owing to all the schools being closed during the war, the young men were not sufficiently advanced to pass the examination. Judge Samuel Milligan, one of the judges of the Court of Claims and a citizen of my district, came to me and asked me to appoint his son to the Naval Academy, as he believed his son, having had some superior advantages, could pass the necessary examination. I told him I would do so with pleasure, and that his son could either go to West Point or Annapolis; that I had made every effort and could find no one to take those places who could pass. He preferred the Naval Academy for his son, and I gave him the appointment. Judge Milligan being extensively acquainted in my district, I requested him to see if he could find or think of any one who would accept the position, and he promised me he would do so. I saw him some time afterward, and he informed me he could not find or think of any one who could pass the necessary examination.

I received a letter from the War Department, notifying me if I did not nominate some one to fill the vacancy at West Point that the same would be filled for me. In the month of February, 1869, a member of the House of Representatives came to my seat, while the House was in session, and informed me he wanted to introduce me to General Este, a friend of his, and he took me to the door and introduced us. He told me General Este was a gentleman, and that any favors I could extend to him would be duly appreciated by him. General Este stated to me that he had learned from the Secretary of War that there was a vacancy in the Military Academy from my district. I told him there was, and had made every effort within my power to have it filled. He stated to me that General Tyler, an old army officer, had a very promising son, and that he (Tyler) desired to give him a military education, and he called to see if I would not appoint young Tyler to the position. I told him that I could not appoint him, as the appointment would not be recognized by the War Department, as General Tyler was not a citizen of my district, *and, if possible*, I wanted to find some one in my district to fill the place. He said that General Tyler had no residence, and that the Secretary of War and himself had a conversation about the appointment of young Tyler, and that it would prove very gratifying to the Secretary of War if I would appoint him. I told him I would go up to the War Department and see the Secretary upon the subject. The next morning I called at the War Department to have an interview with the Secretary relative to the East Tennessee and Georgia and East Tennessee and Virginia railroads; and during the interview he mentioned the appointment of young Tyler to me, saying he was the son of an old army officer and of unusual promise, and that his appointment would be very gratifying to him. I told him that General Tyler was not a citizen of my district, and that the appointment would not be recognized; but he remarked that a residence could be acquired in a very short time, and that such had been the practice of the government; that the great object was to fill the school with sprightly boys who would do honor to the country. After the conversation relative to the railroads, just as I was about to retire, I remarked to him if the appointment met his approbation, and would be of any gratification to him, I would make it. He said it would meet his approbation, and he would be much gratified if I would make it. In a day or two afterward General Este came to see me again relative to the matter, and I told him I had been to see the Secretary of War about the appointment, and that he said he would be much gratified if I would give it to young Tyler, and that I had promised him I would do so. General Este thanked me very kindly, and said that I would never regret it, as young Tyler was an unusually promising young man. I told him that General Schofield had been very kind to me relative to our railroads, and that when he made the request, having no one from my district to take the position, I was gratified to have it in my power to accommodate him. I told General Este to go

to the Secretary of War and get the necessary papers, and that I would make the appointment. He said he would do so; and in a short time returned with the necessary papers, and I made the appointment. He asked me to state on the paper for the communication from the Secretary of War to be sent to me here, and that he would go up and get the appointment and send it to General Tyler, which I presumed he did, as I never heard of it afterward.

In the month of March following—some time after the inauguration of President Grant—General Este came to my room one evening about dark. I asked him to take a seat, after introducing him to Colonel Spence and E. A. Sawyers, of Tennessee, who were in the room when he came in. He said he wanted to see me on a little business privately, and I told him to go on and tell what it was, as those present were all friends from Tennessee. He said General Tyler wanted to recognize the kind act I had done in nominating his son to West Point, by sending down some money to help in the campaign in Tennessee. I told him that I did not want any recognition of that kind, that I had made the appointment at the request of General Schofield, and that I would not receive one cent of money for any purpose. He insisted that I should take it and help me in my election; but I told him I had no election on hand, as I had been re-elected a few months before; he still insisted, and said the election for governor was coming on in the State and to send it down and let it be used in that election and help the newspapers. I told him that I would not take it, as it was coming from General Tyler; that I had appointed his son to West Point, and it might be construed that I made the appointment on mercenary motives. Colonel Spence interposed, and said to me, "You got to take it, because we are going to have a hard time down there in our election, and you know a few of us have to support our newspapers," and remarked, "You know I have paid five thousand dollars (\$5,000) toward our newspapers lately, and I insist on your taking it for the papers." I informed him that I would have nothing to do with it; then he said he would take it, and for General Este to pull it out, and asked him how much it was, and he said about a thousand dollars, (\$1,000,) and pulled the money out. General Este said that he had been at a good deal of trouble to accommodate his friend, General Tyler; and I told him yes, and that he ought to keep that money for his trouble; he said a hundred dollars would satisfy him, and Colonel Spence took up a hundred-dollar bill from the table and handed it to him, which he accepted and put in his pocket. I told Colonel Spence to give it all back to him, and Spence said no, he was going to use it in the Tennessee election. General Este got up and left. E. A. Sawyers said to me, he wanted me to loan him twenty dollars (\$20) for Dr. Hambleton, of Georgia, for a few days, and Colonel Spence took a twenty-dollar bill of this money and handed it to Sawyers; but I told him not to do that—not to use any of that money that way, and went to my trunk, unlocked it, and got twenty dollars (\$20) and loaned it to him, which he afterward paid me by having the amount placed to my credit at the Exchange and Deposit Bank, Knoxville, Tennessee. E. A. Sawyer left the room, and Spence and myself remained; and when Colonel Spence went to leave, the money was still on the table, and he said to me to take charge of the money; I told him I would have nothing to do with it, and that I was sorry he took it; he remarked to me, "You know me; if I have that money and get on a spree, I would spend it in one night, or give it to the first person who asked me for it, and I don't know when I will get home; you take it, and bring it over to the convention, and we will give it to our newspapers." Knowing Colonel Spence well—having served with him in the State senate—and he being a little intoxicated that evening, I took the money and put it away. After Congress adjourned in April, I remained at Washington, looking after the interest of our Tennessee railroads, and went directly from here to our State convention in May. Our convention was a very boisterous one, and the result was there were two candidates for governor claiming to be republicans. The Press and Times, the leading republican paper in the State, was bought up by the enemies of General Stokes, and it became necessary to establish a paper in the interest of General Stokes. Of the nine hundred dollars (\$900) as afore-said, I appropriated five hundred dollars (\$500) to said paper. There was a debt of two hundred and eighty dollars (\$280) upon the New Era, a republican paper published in East Tennessee. Out of said fund I satisfied said debt, which left a balance of one hundred and twenty dollars (\$120) in my hands, of which sum I gave one hundred dollars (\$100) to the Union Flag, a republican paper at Jonesboro, East Tennessee, which left twenty dollars in my hands. A few days before the election, and after the tickets had been printed and distributed, George Wells, of Hawkins County, was brought out by the republicans for the legislature, believing that the republican candidate then in the field could not be successful, thereby making it necessary to have new tickets printed, and I appropriated the said twenty dollars for that purpose, which exhausted the whole amount. I never appropriated one cent of that money to my own use, and that no money was offered me directly or indirectly for the appointment of young Tyler, and that General Este nor no other person ever offered me money, directly or indirectly, or any other consideration, to make said appointment; and if I committed an error, it was one of judgment and not of intention. While

the presumption is that every one knows the general laws, I never had my attention directed to the statute.

Feeling that I did all within my power to procure an appointee from my district, and knowing that I neither hoped to or did receive any consideration, directly or indirectly, for said appointment, I submit my case to the committee and the House, believing they will do what is just and right in the premises.

R. R. BUTLER.

DANDRIDGE, TENN., *February 23, 1870.*

DEAR SIR: Yours of 21st instant to hand. You ask if I recollect a conversation we had about appointing some one in this district to West Point. I do recollect it perfectly, for I asked you to have a son of Henry Harris, a relative of mine, appointed, as he seemed anxious to go. Some time afterward I withdrew his name, as I found him intemperate. At the time I wrote you to withdraw his name, I looked around to see if there was any one in my district I could recommend, and did not know of one that I thought would bear the examination. You know that our boys, many of them, grew up during the war, and having no schools during the same, were wholly destitute of an education that would have admitted them at West Point. I only speak of so far as my knowledge goes; but such was the general fact. In the petition for Reuben Thomas, I believe his age was left out; he is seventeen or eighteen years old. Write me when you have the time; always glad to hear from you.

WM. HARRIS.

Hon. R. R. BUTLER.

BLOUNTVILLE, *July 25, 1870.*

DEAR SIR: Your letter of the 21st instant reached me yesterday, and in reply to which I can only say to you, and all others concerned, that, in the spring of 1869, (if I remember correctly,) you tendered to me a cadetship at West Point for my son William F. Mullenni, which offer I did not accept, on the ground that he could not pass the examination required of applicants for admission into military academies.

My recollection is now that you asked me if I knew of some other person suitable for such appointment. I don't now remember of suggesting the name of any one; think I did not name any one for the appointment. Since that I do not remember of hearing the subject named in any way until I received your letter.

Very respectfully, yours,

WILLIAM MULLENNI,
Blountville, Tennessee.

Hon. R. R. BUTLER,
House of Representatives, Washington, D. C.

JONESBORO, TENN., *February 24, 1870.*

DEAR SIR: I was away from home when your letter of the 21st reached here. In reply: When I was in Washington, in the spring of 1860, you said to me that you wanted a young man from your district to go to West Point, and requested me to find one suitable, and I promised to do so. After some inquiry I reported to you my failure to get one that wanted the position and who could undergo the examination.

Very respectfully,

JOHN H. FAIN.

Hon. R. R. BUTLER.

WASHINGTON, *March 7, 1870.*

JOHN M. SCHOFIELD sworn and examined.

By the CHAIRMAN:

Question. Please state your age, residence, and occupation.—Answer. I am thirty-eight years of age; reside in St. Louis; am major general in the United States Army.

Q. Please state to the committee, in reference to the matter of the appointment of General Tyler's son to the Military Academy at West Point, what you said, if anything, to Judge Butler, of Tennessee, to induce, or having a tendency to induce, him to make that appointment.—A. Well, gentlemen, since I first heard the purpose for which I was requested to come before you, I have thought over the matter as carefully as possible, but have not been able to recall my conversation with Mr. Butler, or with

any other person upon that subject. I do not, however, by that wish to be understood as saying that I had no conversation of that character with him; it is barely possible that a few words upon the subject may have passed between us; but I am very certain nothing in the shape of any application, on the part of any particular individual, could have been made to me; if such had been the case it is impossible that I could have forgotten it.

Q. So far, then, as the appointment of General Tyler's son to West Point is concerned, you did not urge it, and had nothing to do with it?—A. So far from that being the case, I did not know, until I saw it in the papers a few days ago, that General Tyler's son had ever been appointed, or had ever applied for an appointment; or, indeed, that General Tyler had a son even. I ought perhaps to add, in that connection, that the Secretary of War has almost absolutely nothing to do with these appointments; the appointments at large are made by the President; the appointments from the districts are made by the congressman from each congressional district. Even the signature of the Secretary of War is generally stamped upon the appointment by the clerk. I do not think I know the name even of any cadet appointed while I was Secretary, excepting those of a few of the cadets at large, who were appointed by the President in my own presence.

By Mr. BUTLER:

Q. Do you recollect my being there shortly after your arrival, talking about matters connected with the East Tennessee and Virginia and East Tennessee and Georgia railroads?—A. I know there were persons there frequently to consult upon matters connected with those railroads; it is difficult for me to approximate the exact date; I do remember that Judge Butler was one of the members from Tennessee who conversed with me on that important subject.

Q. Do you remember the last conversation we had upon the subject of the road—that I told you Mr. Calloway had telegraphed that there was a rumor that the road would be seized, and that you remarked it would not be done during Mr. Johnson's administration, because he had signified that himself?—A. I remember that some such remark was made, and some apprehension expressed by somebody in Tennessee, and that I gave some such assurance. Whether it was Mr. Butler or not, I am not able to say.

Q. Do you remember, in relation to cadetships, saying anything like this: That the object was to fill the school with bright, intelligent boys, who should reflect credit and honor upon the country?—A. I do not; it is very likely, however, that I may have said so; for I understand that to be the object of the school.

Q. Do you remember having any conversation with General Tyler at all?—A. I have a very indistinct impression that I did see General Tyler; if so, my conversation with him was very casual. I never saw him but once, I think, unless I did see him there in the war office. I certainly had no important conversation with him. I have no recollection of the time. The impression upon my mind is so slight that I would have said that General Tyler had never been in my office, had I not been so informed by somebody else who was present at the time. Having been so informed, I think I can recall an indistinct impression of his being there. In business hours I was occupied with important matters, and would not naturally recollect a casual visit.

Q. Do you remember General Este saying anything to you in reference to the matter?—A. I recollect that General Este was in my office several times, but I do not recollect any conversation with him on the subject of cadet appointments. If I had any such conversation, it must have been of a very general and unimportant character, at least to me, however important it seemed to him or to others.

SUTRO TUNNEL.

[To accompany bill H. R. No. 1179.]

MARCH 17, 1870.—Ordered to be printed.

Mr. SARGENT, from the minority of the Committee on Mines and Mining, made the following

REPORT.

The first and second sections of an act in relation to the Sutro Tunnel, passed in July, 1866, grant to A. Sutro the right of way for a tunnel from the valley of the Carson River to the Comstock lode, in Virginia City, and also the right to purchase certain unoccupied public land and such unclaimed mineral lodes as might be discovered in running the same.

The third and last section of the act is in these words :

“SEC. 3. *And be it further enacted*, That all persons, companies or corporations, owning claims or mines on said Comstock lode, or any other lode, drained, benefited, or developed by said tunnel, shall hold their claims subject to the condition (which shall be expressed in any grant they may hereafter obtain from the United States) that they shall contribute and pay to the owners of said tunnel the same rate of charges for drainage or other benefits derived from said tunnel or its branches as have been or may hereafter be named in agreements between such owners and the companies representing a majority of the estimated value of said Comstock lode at the time of the passage of this act.”

The agreements referred to in the section above quoted were certain contracts between Sutro and his associates, on the one side, and the mining corporations, some twenty in number, owning claims on said lode, upon the other.

These agreements were all in the same form, executed upon parchment, contained a large number of mutual stipulations, and were evidently prepared with great care. The first five articles of the contract were devoted to a statement of covenants binding upon Sutro and his associates, among which are the following :

ARTICLE I. The parties of the first part, in consideration of the premises, and in consideration of the covenants and agreements hereinafter mentioned, to be kept and performed by the party of the second part, covenant and agree to and with the party of the second part, that the parties of the first part will, on or before the first day of August, 1867, commence and with reasonable energy and vigor, and at their own expense, run, excavate, and complete the tunnel and lateral drifts hereinafter mentioned, and put the same in condition for use, in accordance with the provisions of the said act of the legislature of the State of Nevada, and with the covenants in this agreement contained, for the purpose of draining the mines on the said Comstock lode, and furnishing other conveniences for working the same.

ART. III. The parties of the first part covenant and agree that the work shall be commenced at the time specified, by running the tunnel from the foot hills of Carson Valley; and also by simultaneously sinking at least three shafts of sufficient capacity on the line of the tunnel, and when the shafts have reached the depth required for the level of the tunnel, then to drift in both directions from the bottom of each shaft, so that there shall be at least seven places of excavation going on from the time that all of the shafts shall reach the requisite level all the time until the tunnel is completed, unless connections between some of the shafts are sooner made; and the said work at all times shall be prosecuted continuously and without any interruption, except from unavoidable accident, until the completion of the tunnel, and of the works which, under this agreement, are to be considered as draining the mine of the party of the second part; and in case of any such interruption occurring, the cause thereof shall be removed or remedied and the work resumed without delay.

And the parties of the first part covenant and agree, that on or before the said 1st day of August, 1867, there shall have been subscribed, in good faith and by apparently responsible persons, at least the sum of three millions of dollars, for the purpose of carrying on and completing the said tunnel and the lateral drifts hereinafter mentioned; that of said sum at least ten per cent. shall have been actually paid in cash; that during the first year in which the work shall be prosecuted, commencing on said 1st day of August, 1867, there shall be expended upon, or on account of the work, not less than the sum of four hundred thousand dollars, and during each succeeding year thereafter, until the work shall be completed so as to drain the mine of the party of the second part within the meaning of this agreement, not less than the sum of two hundred thousand dollars, provided that this amount can be advantageously expended after the completion of the main tunnel, and that they, the parties of the first part, will within thirty days after the expiration of each year, furnish to the party of the second part a full, true, and correct statement of the expenditures made on account of the work during such year, verified by the oath of the managing agent and secretary or book-keeper of the parties of the first part.

ART. IV. If the work shall not be commenced on or before the said day, and with said sum of three millions of dollars subscribed, and ten per cent. thereof actually paid in cash, as hereinbefore provided, or if, after so commencing, the parties of the first part shall during any year fail to expend on account of the work the sum of money hereinbefore agreed to be expended during such year, this agreement shall, at the option of the party of the second part, cease and determine, and thereafter be of no effect.

A subsequent article contains a covenant by the mining company to pay to the owners of the tunnel two dollars for each ton of ore extracted from the mine after the completion of the tunnel, as a compensation for benefits of drainage.

These contracts have never been in any way revoked or annulled by the act of the parties, and would still be in full force between them, were it not for the peculiar phraseology of the section of the act of Congress above recited.

A careless reading of that section, even, by a legislator or lawyer, would leave the impression that, as to those companies having then existing contracts, it was simply a recognition or confirmation of their agreements. Such was the understanding, as now stated by himself, a senator who introduced the bill, as also, in all probability, of the

Congress in passing it, and until within a short time, and before their attention was called to it in the manner hereinafter stated, such was undoubtedly the opinion of the mining companies. It has, however, recently been claimed by Sutro and his associates that such is not the correct construction of the language of the section; that its real effect is to supersede the stipulations of the agreement—to create an independent obligation upon the part of the mining companies to pay the two dollars per ton upon the ore extracted, while relieving Mr. Sutro from the performance of the covenants entered into on his part, as above set forth. A critical examination of the section justifies this claim upon the part of Sutro. The law, as worded, does supersede the contracts. The agreements are referred to simply for the purpose of fixing the amounts, and the obligation to pay them, when thus ascertained, is made absolute. Had the requirement been, instead of a payment of the amounts *named in the agreements*, a payment of those amounts *according to the terms of those agreements*, the law and the contracts would have stood together. As it now reads it establishes new relations between the parties, reserving to Sutro the benefits of the agreement and releasing him from the performance of those stipulations on his part which were the consideration for those benefits.

The object of the present bill is to prevent the law from having this operation. It simply requires that this section shall not be so construed as to impair the obligations of the contracts made between the parties. It is supported by the nearly unanimous petition of the mining companies now operating upon the Comstock lode, all of whom were parties to the contracts referred to in the original act. These mine owners do not ask to be relieved from any contract or agreement which they have made, but insist that it is unjust that Congress should make a new contract for them without their consent, and that if such legislation has, by accident, crept into the statutes, or has been designedly placed there without their knowledge, it ought not to be retained. Certainly the proposition thus stated is upon its face reasonable and just, and if it were a question now of proposed original legislation of the character of the section sought to be modified, it would not, so far as we can judge by expressions during the discussions before the committee, have a single advocate among its members.

That the mine owners, having a property in their mines recognized by the courts, State and national, and by every department of the government—property in which is invested millions of private capital—should be treated as other property owners; that their property rights should be sacred as those of others; that the contracts made by them in relation to its enjoyment or development should be respected as are other contracts; that no more in this case than in another should a burden be imposed by law upon the property of A for the benefit of B, are propositions too obviously just to be disputed. Yet each of them was violated by the section under consideration.

It is not upon a defense of the justice of the original act that the opponents of the present bill rest their opposition; but it is said, and such we understand to be the position of the majority of the committee, that however gross may have been the impropriety of the original legislation, yet having been made, and having for years remained a law, it ought now to be retained, for considerations independent of its original character. It is argued, that during the period which has elapsed since its enactment, Sutro and his associates had a right to act upon it; that they have so acted upon it; that they made expenditures upon the

faith of its provisions, and have thereby acquired under it what are termed vested rights, which ought not to be taken away by its repeal.

We do not understand that by the term "vested rights" it is meant to assert that rights have been acquired of such a character as to place it beyond the constitutional power of Congress to impair or modify them by the passage of the present bill. If such were the fact, the passage of the bill would in no way prevent them from obtaining full protection from the courts. Independently of the full power which, in our opinion, Congress has over the entire subject, both for its former legislation, however unjust, as well as for the passage of the present bill, there is no room here for question, even by the strictest constructionist, for the reason that the original act sought to be modified, and in the very respect in which modification is sought, is obnoxious in a twofold degree to the same objection. If there is any such limitation of congressional power, it must have been reached by an act which, like the original, not merely impairs the obligations of contracts solemnly ratified by the parties, but abrogates their most essential provisions; an act which imposes a tribute upon the owners of the mines without their consent for the benefit of Sutro and his associates. If this legislative act was void for want of power, it cannot be an excess of power to revoke it. It is certainly not unconstitutional to repeal unconstitutional provisions. But, in fact, this position is disclaimed by the majority of the committee. What is meant, then, by vested rights, as claimed for Sutro, is, that he and his associates, reposing upon the law as it now is, have been led to pursue a line of conduct, and incur expenses, in such manner that it would now be inequitable toward them for Congress to modify its legislation. It is a question not of power but of justice; as such it must be determined, as all questions of this nature must be, by the facts and circumstances which surround and give character to the transaction. It is not sufficient, certainly, to say that because money has been invested or expended upon the faith of existing legislation, that *therefore* it might not be repealed or modified. Such an assumption would put an end to all legislation, for money is constantly being invested upon the faith of its existence and continuance. Men daily become rich or poor as a tariff is raised or lowered; as a post road is established or discontinued; as a capital is located at Washington or at Saint Louis; as a funding bill passes the Senate or a resolution for expansion of the currency passes this House. As in these cases so in the present. Sutro knew that this law was liable to be changed; and if he knew, as we think he did, that it ought to be changed, that valid reasons existed why it should be changed, he could not by any expenditure, great or small, which he might choose to make, influence or embarrass, much less *bar*, an examination by this Congress into the actual merits of the original legislation. Coming thus to the facts and circumstances connected with this individual law, and bearing upon the equities of the parties interested, it is to us satisfactorily established—

First. That the legal effect of the language of this third section is different from the intention of any of those interested in or connected with its passage. That neither the introducer of this bill nor the members of Congress who voted for it, nor Sutro nor any of the mine owners, intended at the time of its passage to interfere in any manner with existing contracts.

This conclusion is in the first place suggested by the phraseology of the section itself. If the law was to supersede the contracts, why should they have been referred to at all? If a royalty of two dollars per ton was to be imposed by Congress, as now claimed, why not have simply

enacted that, upon the completion of the tunnel each miner upon the lode or within the district should pay to the tunnel owners a fixed sum per ton upon all ore extracted. If the design was, as now claimed, simply to fix this *amount* of a royalty, it was certainly a most unusual and a most awkward mode of doing it to thus avoid a short expression by plain figures, and resort to a long and clumsy reference to *amounts named in certain contracts made by a majority of companies* upon a certain lode.

Again, the senator from Nevada, who introduced the original bill, and his colleague, who supported it, and who are still in the Senate, both assert that there was no intention to interfere with or in any way modify existing agreements; that in their conversations with Sutro, at whose instance the bill was introduced, he never suggested such interference, and, so far as they know, never contemplated or asked for a law having this effect.

Still further, that there was no such design is rendered almost certain by the relation which the time of the introduction of the bill bears to the execution of the contracts. They were virtually contemporaneous. The contracts, of which the form and mutual stipulations had been considered for some months, were executed in the months of March, April, and May, 1866. The bill was introduced very shortly after, and became a law July 26th of that year. They were really parts of the same transaction. An act for a right of way, for a land grant, and for mineral veins to be discovered, was part of the plan proposed by Sutro, in connection with these agreements, and approved at the time by the mining companies. Immediately after the completion of the contracts, Sutro came to Washington with the avowed purpose of obtaining an act of that character. Now is it not almost impossible to believe that after months of careful preparation of mutual covenants deemed essential by the parties, and upon the heels of their formal ratification, a bill should be introduced and permitted to become a law, with the consent of those parties, by which all the covenants upon the one side were abrogated and annulled? No new considerations are pretended to have intervened, and can it be supposed that the mining companies consented thus to release those essential guarantees upon which they had so inflexibly insisted? Can it be believed that the congressional representatives of the State of Nevada would intentionally permit so gross a wrong to these important mining interests? Can it be believed that Sutro would be guilty of the bad faith involved in asking this to be done?

It is true that Sutro stated before the committee that he did so understand this section at the time, and that he so stated his understanding to the Nevada senators; but in the face of direct personal contradiction, as well as that of the surrounding circumstances, and of his plain duty toward the absent mining companies, we prefer to believe that his memory is now at fault, to believing him thus capable of an act so damaging to his character as an honest man.

But not only did the phraseology of this section manifest the intentions of all parties at its passage, but there is every reason to believe that Sutro, for years afterward, continued under the same misapprehensions as to its effect. He certainly does not show that until within the past six months he ever communicated to the mining companies which contracted with him, his claims to a royalty by this law, or otherwise than by their agreements. If he so understood it he deceived them. In the summer of 1867, finding that he was not able to comply with the conditions as to *mine*, subscriptions, or work above recited, he applied to the boards of trustees of the various companies to extend the period for fulfilling these conditions for one year and until August 1, 1868. A blank form for

these extensions were prepared by him for signature, a copy of which can be found in a book called the "Sutro Tunnel" Book, (page 188,) published by him in 1868. It recites that, "in consideration of the sum of one dollar, and other considerations, the company covenants that said party of the second part shall have, and is hereby granted, an extension of time for one year from and after the period specified in articles first, third, fourth, and fifth, of a certain contract entered into between the parties hereto on the ——— day of ———, 1866." These articles are the same quoted in the commencement of this report. The execution of this document was pressed upon the companies most industriously and as being vital to his success. Only a few of them were induced to sign it. Now, did or did not Sutro, in 1867, believe that the articles above mentioned were still in force between the parties notwithstanding the law of 1866? Did he understand, at that time, that by act of Congress these articles had been annulled? Did he believe that by that act the bounty benefits were secured to him independent of the performance by him of these stipulations according to the agreement? If so, why ask for an extension of time to perform them? Why urge with such assiduity, and with such misrepresentations, as to its importance, an act vain and nugatory? The conclusion is irresistible that at that time he shared with the mining companies the opinion that these stipulations had not been impaired by the law. To believe otherwise, and to suppose that he knew of the mistake and its effect, would be to impute to him a concealment which was a fraud, and a line of conduct which was an acted falsehood. Again, he publishes in the book above referred to, (page 166,) in March, 1868, a report prepared by a committee under his supervision and adopted April 4, 1867, by the Mechanics' Institute of California, in which, after describing the contracts, the committee say: "We understand from Mr. Sutro that these contracts are *subject to the conditions* that he and his associates obtain subscriptions to the amount of \$3,000,000 in currency prior to the first day of August, 1868." The object of the statement was to procure a prompt subscription to his stock, that he might not lose the benefits of the contract by failure to perform these conditions. Here, again, Sutro either intentionally deceived those with whom he was dealing, or he supposed this condition referred to to be still in force notwithstanding the law.

If it is said that the object of the original law was to impose on the companies on the Comstock lode who refused to contract with Sutro the same liabilities as those were under who did, this, while making the injustice of that law more glaring, does not show that its intent was further to relieve him from the obligation of fulfilling his agreements with those who did contract with him.

Second. But whatever may have been the exact period at which Sutro discovered that his bounty was secured by law and not by contract, it is satisfactorily established that the mining companies rested under their mistake until shortly previous to the time of the commencement of work upon the tunnel in the latter part of October, 1869. It was about that period that Sutro first brought notice of his claim to these companies in an advertisement for a sale of his stock, in which this absolute royalty was claimed in spite of its forfeiture under the contracts. They had no part in the original passage of the law, and no mistrust to induce a careful examination of its provisions after its publication.

For three and a half years after the agreements were made, nothing whatever was done towards the construction of the tunnel, and therefore nothing to draw attention to the provision in question. Nothing in

the conduct of Mr. Sutro awakened any suspicions that he claimed otherwise than according to their contracts.

As soon as this claim was asserted to them they promptly repudiated its obligation; and when informed by their attorneys that the law would bear the construction claimed by Sutro, and that this construction would probably be adopted by the courts, they prepared their petitions to Congress for relief. They have refused, each of them, to accept any patent to their mines containing the condition required by this section. They have therefore been guilty of no laches in their application, nor suffered any equities to be acquired by expenditures in ignorance of their intentions.

Third. The work done upon the tunnel under these circumstances would not, even if important in amount, be entitled to any weight in preventing the modification of the law to conform to the mutual understanding of the parties. But this work is in fact insignificant in its character. The statement that the tunnel is in a distance of between seven and eight hundred feet is, if not disingenuous, at least calculated to mislead. In truth, only sixty-five feet of the tunnel is completed, or in any condition approaching completion. This work was commenced some time in October last, three years after the time stipulated, and this sixty-five feet was completed by the labor of fifteen men by the 1st of December. Since then nine men and a blacksmith have been the only persons employed in running a small drift through gravel several hundred feet into the hill. The timbering of the sixty-five feet of tunnel completed did not cost to exceed six or seven hundred dollars. The cost of all work upon the tunnel, including labor and materials, did not, at the time the bill was introduced, equal \$5,000. Whether this tardy and feeble commencement, so disproportionate to the magnitude of the enterprise, be regarded as a real attempt at construction; or whether, as seems more reasonable, it be regarded as having been done to furnish the premise of an argument before Congress, for which purpose it is now being used, as auxiliary to foul abuse of every one in or out of Congress who does not favor the Sutro scheme, it can in no way affect the equity of the proposed legislation. It was done with full knowledge of the error and injustice of the original act, of the circumstances attending its passage, and of the intention of the parties injured by it to apply to Congress for the relief now sought.

In the mean time the mining companies have acquired equities of a very different character. During the three and a half years that Sutro has remained idle the companies have expended millions in developing and increasing their working facilities. Considering, as they had a right to do, after so long a period of inactivity, and after a breach by Sutro of all the essential conditions of the contracts, that the tunnel, if ever made, would be made, as Sutro was claiming, as a national exploring measure and with national money, and could not in any event be a tax upon them, they ceased to regard it either with faith or interest and shaped their mining operations without reference to it. Some of the benefits proposed by its construction they have secured by other and expensive appliances; others, the developments have shown to have been more imaginary than real. Of these proposed benefits drainage was the principal. At the time the contracts were made the average depths of the shafts were from five to six hundred feet; and down to this depth large quantities of water were encountered. It was thought at that time that if the water should continue to be found in like quantities in descending, the tunnel at great depths would be, if not absolutely necessary, at least of great utility. The principal shafts are now down

to an average of from ten to eleven hundred feet, and in the last three hundred feet no considerable amount of water has been encountered. The mining superintendents—a body of men, many of whom add to a stock of scientific mining knowledge much superior to that found in the compiled literature circulated by Sutro, a practical experience upon this lode infinitely more valuable as an element of judgment on this point—are unanimously of opinion that the water belt has been passed, and that its occurrence in any considerable quantity is not to be feared in descending to any depth, however great. The principal claims have erected heavy and expensive hoisting and pumping machinery, amply sufficient, in the opinions of the owners and superintendents, to sink, explore, and work economically below the proposed tunnel level. For drainage, in their opinions, the tunnel is not necessary, and is of doubtful utility.

Ventilation was an object of some though minor importance. It is now the almost unanimous opinion of those owning and working the mines, that the tunnel will be of no practical advantage in this respect. Perpendicular shafts, connected by horizontal drifts, furnish a current of air equally strong and pure with that which a tunnel would supply. Shafts of this character are now being sunk at such points along the lode as will make their connection by drifts a matter of no more difficulty or expense than would be required to connect with the proposed tunnel, if completed to the lode. Hot or impure air will always exist in new drifts or shafts until these connections are made, and this difficulty would be in no way obviated by the tunnel. The tunnel, therefore, is not needed for ventilation.

Cheap transportation by steam to water-power was another of the objects proposed by Sutro to be accomplished by his tunnel. Since his failure to comply with his contracts, and within the last year, a railroad has been constructed at an expense of \$1,500,000, to which the mining companies have largely contributed, connecting the various Comstock mines with the mills on the Carson River. That which Sutro proposed, but for three years and in violation of his agreements neglected to do, the mining companies have since, at great expense, done for themselves.

Satisfied of the truth of the above facts, we cannot believe that it is now proposed or intended to construct this tunnel because of its proposed necessity or utility. If it were necessary, or sufficiently useful, the mining companies would construct it themselves, and that without the aid of any law of Congress. They have not shown themselves unenlightened upon their own interests, or illiberal in their expenditures for exploration. They have met every new want with enterprise. They erect new hoisting works, sink new shafts, introduce new machinery, build railroads as fast as convinced by new developments of their desirability. Whose opinion is of the most worth as to the necessity or utility of a work of this character? That of the men who daily superintend these mines and of those who own them, or that of Sutro, who is a stranger to them, and who only visits the city which overlies them annually or semi-annually, according as he can be spared from his congressional labors?

The real complaint which the mine owners make against the law as it now stands is that it permits, and perhaps may induce, the running of this tunnel without reference to its utility, but simply as a speculation, based upon an estimate of the amount of tribute which may be laid upon the ores now developed, or to be developed, in their mines. It is shown that between the surface of the lode and the present lower workings, there are vast deposits of low grade ore passed by in former years because not of sufficient value to justify working; but which, owing to

the construction of the railroad and the cheapening of materials and improvements in machinery, can now be mined and milled at a small profit of, say, from two dollars to five dollars per ton. Many of the mines derive their principal value from the quantity of this character of ore which they are supposed to contain. There are not two mines on the lode to-day which have ore upon their lowest level. The gross yield of all the ore worked from this lode in the year 1869 was a few cents less than twenty-one dollars per ton, and the grade is constantly decreasing. The Chollar Potosi alone is estimated by some to contain a half million tons of ore below this grade. The cost of milling and mining will average from fifteen to eighteen dollars per ton. For working this ore, the tunnel cannot by any possibility be of the least advantage. It has already been discovered, drained, ventilated, and has railroad facilities for transportation. Yet, under this law, as it now stands, Sutro can complete his tunnel to the lode, and compel the miner to pay the two dollars per ton upon all the ore which may be subsequently extracted. To persuade an investment in his stock, then, it is not necessary that he should convince any one of the utility of the tunnel, but only that he should point out the amount of ore already developed, and the amount likely to be developed, not by him or his work, but by the mining companies, and compare this amount with the estimated cost of carrying the tunnel to the place where the tribute is to be laid. If the comparison is favorable, the speculation may be lucrative, the tunnel can be run, and its cost will be a direct tax without any equivalent upon the owners of the mines.

To permit this is not only unjust to the miners, but injurious to the country at large. The Comstock lode has produced \$100,000,000, which has been to the government, in the struggle through which it has passed of incalculable advantage. With a heavy public debt its continued production is equally a need for the future. But while the nation has been benefited the business has not proved profitable to those engaged in it. The expense has always nearly absorbed the proceeds, and it now exceeds them. In 1867 the mines produced \$16,000,000 at an expense of \$15,500,000. In 1868 and in 1869, the expenses were in excess of the amount realized. Still they have persevered. Hope of sudden wealth in the individual has outweighed the effect of a general balance against the payers of assessments. It is not wise to discourage an important interest thus circumstanced by unjust legislation. If the cost of an expensive tunnel which they do not want is imposed upon them, and the failure to construct which induced these large outlays which render it unnecessary, its direct tendency will be to discourage the continuance of their operations. The two dollars per ton with which they are now threatened approximates, as shown above, very nearly to the present profit over milling and mining. Should the tunnel be completed under the present law the speculators will be disappointed. They cannot force the working of the mines, and the miners will not work them for the profit of the tunnel speculators. The immense quantities of low grade ore will remain in the mines, and the owners will lose their small profits, and the nation the large gross production of the precious metals which it so much needs.

In conclusion, our reasons for dissenting from the majority report, and recommending the passage of this bill, may be summed up as follows:

1. The original section is, in the respect in which it is sought to be modified, unjust in imposing an involuntary tribute upon the property of the mining companies for the benefit of a private individual.

2. The section assumed the form by which this effect was produced by a mistake in phraseology, which this bill corrects.

3. All the parties interested, both at the time of the passage of the section and for years afterwards, as shown by their conduct and declarations, understood the law to have the exact effect which will be given to it by the passage of the present bill.

4. Nothing has since been done by Sutro which would make the conforming of the bill to the original intention of the parties inequitable towards him; while the condition of the mines and the subsequent operations of the mining companies entitle them to demand this relief.

5. The practical result of rejecting this bill will, or may be, to impose an onerous tax on the owners of the mines, without their consent, and without any corresponding benefit.

Respectfully submitted.

A. A. SARGENT.

GEORGE TUCKER vs. GEO. W. BOOKER.

MARCH 22, 1870.—Laid on the table and ordered to be printed.

Mr. GEORGE M. BROOKS, from the Committee of Elections, made the following

REPORT.

The sub-Committee of Elections, to which were referred the credentials of George W. Booker, claiming to be a representative in the present Congress from the fourth congressional district in the State of Virginia, and the memorial of George Tucker, claiming to have been elected as such representative, submits the following report:

The memorial, notice, and allegations of George Tucker, the contestant, the evidence, and other papers in the case may be found in miscellaneous document No. 44, of the present session, from which it appears that George W. Booker was duly elected as a representative to the forty-first Congress on the sixth day of July, 1869. The record of the vote is as follows:

George W. Booker.....	13, 101
George Tucker.....	9, 568
W. H. Stowell.....	4, 639

The returns, therefore, show that the said Booker was elected by a plurality of 3,533 over the said Tucker.

But the right of the said Booker to hold a seat in the forty-first Congress is contested by the said Tucker on the ground that he is ineligible, totally disabled, incompetent, and prohibited from holding his seat as such member under the provisions of the third section of the fourteenth amendment to the Constitution of the United States, which is as follows:

SEC. 3. *No person shall be a senator or representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; but Congress may, by a vote of two-thirds of each house, remove such disability.*

And that he is unable to take the oath required by the act approved July 2, 1862, entitled “An act to prescribe an oath of office, and for other purposes,” which is in the following words:

I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance

to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

By reason of disloyal acts alleged to have been committed by the said Booker, as specifically set forth in the "allegation of ineligibility," made by said Tucker, on page 3 of Mis. Doc. No. 44.

From the evidence it appears that on July 14, 1856, said Booker, having been elected a justice of the peace for the county of Henry and State of Virginia, for the term of four years from the 1st day of August then next, took the oaths of office prescribed by law, and the oath to support the Constitution of the United States; that acting under this commission, he performed the duties of a justice of the peace, and on July 9, 1860, having been again elected a justice of the peace for the term of four years from the 1st day of August then next, he took the several oaths required by law, and on the 10th day of September, 1860, he was elected presiding justice of the court, and that he continued to exercise the duties of such magistrate during the rebellion.

The particular acts of disloyalty that are relied upon by the contestant, and which appear to be proved and are not denied by the contestee, are as follows: That at a county court held for Henry County, at the court-house, on May 13, 1861, said Booker met with other justices and voted to accept the provisions of an act of the general assembly, passed January 19, 1861, authorizing the county courts to arm the militia of their respective counties, and to provide means therefor, pursuant to a resolution of the convention of Virginia "recommending the county courts to levy or raise by issuing bonds, a sufficient amount of money to equip and arm such volunteers as may be raised within the limits of their respective counties;" it was also at said court "ordered that ten thousand dollars be raised by levy on all the lands and all other subjects liable to tax and levies in said county."

That at a county court held July 8, 1861, said Booker being present as presiding justice, William Martin was appointed by said court as an agent on the part of Henry County, "to visit the volunteer companies in the service, and report to the next court the wants and general condition of said companies, with a view to making provision by the court for the relief of their necessities." At a court held September 9, 1861, Samuel H. Haviston was appointed an agent for the county to purchase full winter equipments for the four volunteer companies in the service.

At a court held October 15, 1861, said Booker was appointed an agent for the county "to repair to the encampments of the several companies from said county and ascertain the wants of each member in clothing, and report thereof to the next court." And at a court held November 12, 1861, said Booker made a report in writing, which is annexed hereto and marked A.

At a court held May 12, 1862, it was ordered "that the families of the militia in the service of the State or Confederate States be provided for by the commissioner in the same manner as the families of the volunteers."

At a court held January 12, 1863, it was ordered "that bonds to the amount of three thousand dollars be disposed of, and the proceeds paid over to said Booker;" and said Booker was then appointed an agent "to repair to the army, ascertain the individual necessities of the soldiers from Henry County, and to purchase such articles for the soldiers as they may need."

At a court held February 9, 1863, said Booker made his report as agent appointed by the last court, and thereupon certain persons were appointed to solicit contributions in the way of clothing, &c., for the

soldiers, and were ordered to deposit the same with the clerk of the court, and B. F. Dyer was appointed to take charge of such articles as might be so collected, and carry them to the soldiers and buy such articles as should be lacking after the distribution; and to furnish said Dyer with funds for such purpose said Booker was directed to pay over to him the balance in his hands of the five hundred dollars received from J. Griggs, and said Griggs was ordered to sell the bonds authorized by the order of the last term of this court, and pay the proceeds to said Dyer.

At a court held August 10, 1863, said Booker, who had been appointed at the then last term of court to contract with the proper authorities for furnishing salt to the citizens or counties of the State, made his report, which was adopted by the court, and it was ordered "that said Booker proceed to hire two able-bodied negro men, as mentioned in said report, and proceed to consummate the contract; and it is ordered that the salt agent pay to said Booker \$447 for his expenses out of the sale of the salt." Said Booker was present and acted at all the above sessions of the court.

That on May 26, 1864, said Booker was duly elected a justice of the peace for the Ridgeway district, in the county of Henry, and August 3, 1864, he took the several oaths of office as required by law.

It appears from the testimony of Jeremiah Griggs, a witness for the contestant, that said Booker voted for the ordinance of secession.

Q. Do you know whether Mr. George W. Booker voted for the ordinance of secession or not?—A. Mr. George W. Booker stated to me that, although he was opposed to the ordinance of secession, on consultation with a certain Mr. Gravely, who agreed with him in sentiment on that subject, he concluded it would be more safe to vote for it, and did so vote.

The contestee does not deny any of the above facts, but he claims that he was, from the outset, opposed to the doctrine of secession; that he was always a Union man; that he held the office of justice of the peace at the beginning of the war, and it was deemed best by those opposed to secession that as many Union men as possible should hold these offices for the purpose of protecting Union men, and that the position he held was a protection to him against conscription in the rebel army.

It appears in evidence that said Booker was conscripted, and was released therefrom on a habeas corpus, on the ground of his holding the office of justice of the peace.

From the testimony of the witnesses, (who are men of apparent respectability and standing, most of them having held offices of trust and honor in Virginia, and who were well acquainted with said Booker,) the committee is of the opinion that said Booker was a loyal man and had no sympathy with the rebellion, and that all the acts done by him that were charged to be disloyal (except his vote on the ordinance of secession) were so done in the line of his duty as a member of the court, and in the legitimate discharge of such duties; that the state of public opinion was such in the locality where said Booker lived that to have resigned or to have refused to perform the duties of his office, to have voted against, or not to have voted at all, upon the ordinance of secession, or to have done any act indicating that he was opposed to secession, or was a sympathizer with the United States, would have subjected him to personal violence; that his continuance in and acts done in his office were so done for the purpose of protecting his person, family, and property from violence, and himself from conscription, and for the reason that by holding the office he could be of some aid and benefit to Union men.

Although technically said Booker may have seemed to have "given aid

and comfort to the enemies" of the United States by performing the duties of his office, yet the committee is convinced that he was during the whole rebellion, and to the present time has been, a sincere Union man, and that the acts by him performed to which objection is taken are in contravention of the letter but not the spirit of the third article of the fourteenth amendment to the Constitution of the United States. The committee therefore holds that said Booker is not ineligible under the same.

The committee is, however, of the opinion that if no action had been taken by the House upon the claim of said Booker for a seat, it would have reported that having accepted and exercised the functions of an office under the confederate government, he could not take so much of the oath prescribed by the act of July 2, 1862, as declares that he has "neither sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States," without being relieved from the disabilities imposed by said act, and that it should have recommended that so much of said oath above recited should be omitted in administering the oath of office to said Booker.

But the House, on the 1st day of February last, upon representation being made that said Booker was loyal, voted that he was entitled to his seat, and he took the oath prescribed by the act of July 2, 1862, and is now a sitting member of this House. The committee is of the opinion that this vote was an indication of the sense of the House that the fact of his loyalty was the question to be settled, and this being determined in his favor, he was entitled to his seat. The committee also believes that said Booker, conscious of his loyalty, did not consider that he was debarred from taking said oath, holding the office under the circumstances and for the purposes he did so hold it; that he did not deem it was the spirit, intent, or meaning of the same to apply to one who was truly loyal and a Union man through the rebellion, and has been so to the present time.

The committee therefore believing said Booker to have taken said oath honestly, considering that he was right in so doing, and being desirous of carrying out the will of a large plurality of the voters in his district, and the declared wish of the House as expressed by their vote of February 1, hereby recommends the passage of the following resolution:

Resolved, That the Hon. George W. Booker is entitled to retain his seat as a member of this Congress from the fourth district of the State of Virginia.

A.

No. 5.—*Copy of report by Mr. Booker to the court.*

To the county court of Henry :

The undersigned, a commissioner appointed by an order made at the October term, 1861, "whose duty it shall be to repair to the encampment of the companies from this county in the confederate army, now in Northwestern Virginia, and ascertain the wants of each member in clothing, and report thereof to the next court; he shall also ascertain and report what members of each company will accept the clothing furnished by the government, and what will not; and shall explain to the companies the difficulty of raising money by the court, and of procuring proper material for the purpose," begs leave to report that, in obedience to said order, he left home on the 20th of October, and arrived at the encampment of the forty-second regiment on Saturday, the 26th, calling at the White Sulphur Springs and Lewisburg to see some of the volunteers from this county, who were at those places in the hospital sick. That as soon as convenient after

his arrival at the encampment, he had the different companies called together and addressed them at length, reading the aforesaid order, and requesting each member to furnish the captain of his company with a statement of the articles he needed, and urging upon them the necessity of drawing clothing from the government, if possible. It gives me great pleasure to say that every member seemed perfectly willing to do so, and I was furthermore informed that a requisition had been made through the quartermaster, Major Saunders, upon the government, and that nothing had been heard from it. I deemed it proper to return by way of Richmond and call upon the department, and ascertain what articles and the amount had been sent. I ascertained that a considerable number of articles of clothing, &c., had been sent to Major Cosby, quartermaster to the army of the northwest, embracing the whole command of Major General Robert E. Lee, (a copy of which is herewith presented, taken from the books of the quartermaster's department.) From information there obtained and from other sources, I am of opinion that it is useless to expect the government to furnish the volunteers from our county more than has already been done, and that they will have to depend upon their own resources and the assistance of the court for their winter supplies of clothing and blankets, as the government cannot possibly fill up the requisitions that have been made upon it by the time winter sets in.

It will appear by reference to the statements made by the several captains already referred to, that most of the volunteers who have the means, prefer to furnish their own clothing rather than to have it furnished by the county. And in view of the present high prices of yarn-cloth, and the difficulty of obtaining blankets, &c., in time to meet the necessities of the volunteers, it is proper perhaps for me to add, that it is totally immaterial whether or not their winter clothing be in uniform. Hence many men can obtain clothing from home already made; and as the army, in all probability, will be in winter quarters before this supply can be sent, bed-quilts will answer very well in the place of blankets, where blankets cannot be easily obtained. In view, then, of the lateness of the season, the delay consequent in the county's negotiating a loan of money, the high price of cloth, and the time which would necessarily elapse before full suits can be made up and sent to camp, I would most respectfully recommend to the families and friends of the volunteers to provide as speedily as possible as much clothing as they can by their individual means, and report as soon as they can to the commissioners who may be appointed by the court to attend to this matter; and I recommend to the court to provide the means of transportation to the encampment. And I would also recommend that the clothing be sent by wagon instead of by railroad, as there are many delays on the railroad, and the means of transportation from the nearest depot to Greenbrier Bridge, in Pocahontas County, where the forty-second regiment will probably take up winter quarters, is so limited at present that they can hardly get a sufficient quantity of flour to the army. Owing to the severity of the winter in that region, (snow falling from two to three feet in depth, sometimes, as I am informed,) I think it highly necessary that each man should have at least, in addition to ordinary clothing, two pairs of flannel or linsey shirts and drawers, one pair of good winter boots, one overcoat and blanket, besides good bed covering, of which quilts will answer as well as blankets.

I regret that my time was so limited that I could not see all the volunteers from the county. They were scattered at the White Sulphur Springs, Lewisburg, Meadow Bluff, Greenbrier Bridge, the Warm Springs, Healing Springs, Rockbridge, Alum, Staunton, and other places. A good deal of sickness prevailed among them, the result of measles, colds from the frequent rains, rheumatism, and camp fever. I am happy to say, however, that the proportion of mortality among our men, when it is considered the number sick, is surprisingly small. And, so far as my observation extended, the wants of our sick were as well attended to as could possibly be expected under the circumstances. Appended will be found a list of the various companies and their wants, and at what place each volunteer is; also my bill of expenses. I cannot close this report without expressing my gratitude to Colonel Burke, and the officers and men of our companies, for the kindness shown me.

All of which is respectfully submitted.

GEO. W. BOOKER.

NOVEMBER 9, 1861.

VIRGINIA, *Henry County, to wit:*

I, Thomas E. Donigan, clerk of the county court of Henry, do certify that the foregoing is a true copy of a paper on file in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of the court aforesaid this 6th day of December, 1869, and in the 94th year of the Commonwealth.

[SEAL.]

THOS. E. DONIGAN, *Clerk.*

APPOINTMENTS TO THE MILITARY AND NAVAL ACADEMIES.

[To accompany bill H. R. No. 1606.]

MARCH 24, 1870.—Agreed to and ordered to be printed.

Mr. LOGAN, from the Committee on Military Affairs, made the following

R E P O R T .

The Committee on Military Affairs, who were authorized by the resolutions of the House of Representatives of the 4th day of February, 1870, and March 1st, 1870, to inquire into the alleged sale of appointments to the Military and Naval Academies by members of this Congress, respectfully submit the following report:

The committee have taken evidence relating to a number of cases, and find that many irregularities have occurred in appointments having been made from districts in which the appointee did not reside. Such appointments of non-residents have been made in violation of the law, which explicitly provides that persons appointed cadets at the Military Academy and midshipman at the Naval Academy shall be actual residents of the districts from which such appointments purport to be made. In some cases the appointee was sent to the district for a short time to give him a pretended residence. These illegal practices appear to have grown up during the war, and have been in some degree owing to a too lax construction of the law by the War and Navy Departments. These departments appear to be endeavoring to prevent the recurrence of such abuses. The War Department took action upon the subject previous to the investigation upon which the committee have been engaged, as appears from the evidence of Inspector General Edmund Shriver, taken before the committee.

The committee find that in some instances money has been paid to parties who have, through the influence of themselves and friends, procured appointments from members of Congress, but these parties testify that they retained the money for their own use, and that the members had no knowledge that any consideration had been paid to obtain the influence that was brought to bear to secure the appointment.

In some cases the evidence is so conflicting and contradictory that nothing is proven that can be relied upon.

The committee, having carefully examined all the testimony in the cases now before them, (other than those already reported to the House,) have unanimously concluded that the facts proven are not sufficient to warrant them in reporting the cases to the House for any action on its part. The committee are of the opinion, inasmuch as they do not feel warranted in reporting the conduct of any member to the House for its action, that they may properly report in this general way; and feeling that they have faithfully discharged their duty, without prejudice against or partiality for any member of Congress, or officer of the gov-

ernment, however painful or distasteful it may have been, they respectfully ask that they may be discharged from any further consideration of the subject. They report herewith a bill to prevent the further continuance of the illegal practice of appointing non-residents to the military and naval schools, and recommend the passage of the same. They also recommend the adoption of the accompanying resolutions:

Whereas it is in evidence before the Committee on Military Affairs of this House, as well as admitted by Commander John H. Upshur, of the navy, that he paid the sum of \$1,300 to one M. D. Landon, with a view of having said money used in procuring the appointment of his son to the Naval Academy at Annapolis: Therefore,

Be it resolved, That a copy of said evidence be transmitted to the Secretary of the Navy, and that he be directed to convene a court-martial for the purpose of putting said Commander Upshur on trial for conduct unbecoming an officer.

Whereas the testimony presented to the House of Representatives on the 16th instant, as taken by the Committee on Military Affairs in the case of R. R. Butler, clearly shows that General A. Schoepf, one of the examiners in the Patent Office, was engaged in lending himself as a medium through which money should pass for corrupt purposes: Therefore,

Resolved, That the evidence in said case be placed in the hands of the Secretary of the Interior, and that he be requested at once to remove said Schoepf from the position of examiner of patents, as an improper person to have or hold so responsible a position under the government.

Resolved, That in addition to the penalties now imposed by law, the Speaker of the House of Representatives is hereby directed to exclude from the privileges of the floor, committee-rooms, clerks' rooms, and the galleries of the House of Representatives, any person or persons who have been, or may be hereafter proved, guilty of having been engaged in corrupting or attempting to corrupt any member of Congress, by directly or indirectly offering him any valuable consideration, with a view of influencing his action in any matter pertaining to his official duties.

J. N. CARPENTER.

MARCH 25, 1870.—Laid on the table and ordered to be printed.

Mr. W. B. WASHBURN, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to which was referred the memorial of J. N. Carpenter, make the following report :

The claimant was a paymaster in the United States Navy in 1863, doing duty on the United States ship *Saratoga*, then stationed off the coast of Africa; he was a citizen of Virginia, possessed of real and personal estate in Spottsylvania and Clarke Counties, and bank stock of the Valley Bank of Virginia, at Winchester, to the amount of \$4,500, and household goods and furniture in Winchester to the amount of \$4,000. His personal property consisted largely of horses and cattle, corn, wheat, and oats, quartermasters' supplies and subsistence stores, which, it is alleged, were taken and used by the Union army under General Milroy's command. That the buildings and fences on his farms were burned, and he impoverished, while absent in the service of his country. He represents that this destruction of property would not have taken place had he been present to protect it, and asks to be compensated for at least a portion of his losses.

No evidence is submitted as to any of these alleged facts, and the committee have no means of determining what property, and what amount, if any, was properly taken for the necessary uses of the army, or what amount was unavoidably destroyed in the battles and contentions of opposing armies, and which is to be held as lost from the ravages of war.

Under these circumstances it is not deemed expedient to recommend that any portion of this claim be paid, but that the memorial lie upon the table, and that the committee be discharged therefrom.

tary act of the claimant, and he stands responsible, in this transaction, for his agent and messenger.

If fault or negligence is to be imputed to General Buford, the same attaches to the claimant. He is to be held strictly accountable for the conduct of his agent. The money was public money, the proceeds of the people's taxes, and demanded extraordinary care from a public officer. It does not appear that General Buford exercised ordinary care. He received the money unguarded, and carried it negligently. It was lost at noonday, in a public saloon, without his knowledge, without being himself in jeopardy, and without being in the line of military duty.

No personal considerations of appetite, such as hunger or thirst, ought to be considered sufficient excuse for a military officer to place at hazard a trust of this nature. Nothing but the peril of life, or such casualties as men cannot provide against, ought to be put forward as an excuse for the loss of public money by a public officer.

Transactions of this character, it is believed, have augmented the public debt to a large amount, instead of which the negligent officers themselves ought to have made good the loss.

The claimant, at the time, had his remedy and his right of action against the negligent officer, had he chosen to pursue them, but the loss of the money was attended with circumstances of such gross negligence that, in the opinion of the committee, neither the claimant nor General Buford ought to be relieved by Congress.

The committee, therefore, recommend the passage of the following resolution:

Resolved, That the claim of Captain Edward Ball be rejected.

ALBERT GREENLEAF, WILLIAM FLYNN, AND S. P. BROWN.

MARCH 25, 1870.—Laid on the table and ordered to be printed.

Mr. W. B. WASHBURN, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to which was referred the memorial of Albert Greenleaf, make the following report :

The claimant was navy agent at the city of Washington from December 23, 1854, to March 31, 1858, and represents that "he was required to perform a service in no way pertaining to the office." This service was the adjudication and payment of claims for *extra pay* granted by the naval appropriation acts of Congress passed 31st August, 1852, and 3d March, 1853, to the officers, seamen, and marines in service on the Pacific coasts of Mexico and California during the Mexican war.

The claimant further represents that the duty of allowing and paying these claims, by the terms of said acts, devolved on "the proper accounting officers of the Treasury," the Fourth Auditor and the Second Comptroller, and not on the navy agent, who protested against the labor and responsibility of this extra duty, but that upon a consultation of those officers with the Secretary of the Navy, immediately after the enactment of the law, the duty was transferred and assigned to the navy agent, as a matter of convenience and security to the government, that officer being liable and accountable for the disbursement of public money which the officers of the Treasury were not.

The claimant's disbursements herein amounted to \$219,357 29, for which he claims the additional compensation of two and one-half per centum, amounting to \$5,483 93, and asks Congress to make an appropriation therefor.

The successor of claimant was William Flynn, esq., who was navy agent at Washington from April 1, 1858, to March 31, 1861, and disbursed on this account \$47,896 15, for which he claims two and one-half per centum additional compensation, amounting to \$1,197 40, and asks to join and be considered in this memorial.

The successor of Mr. Flynn as navy agent was S. P. Brown, esq., from April 1, 1861, to July 27, 1865, when the agency was discontinued. Mr. Brown's disbursements on this account amounted to \$9,612 82, for which he also claims two and one-half per centum additional compensation, amounting to \$240 32, and asks to join in this memorial.

These claims were referred to the Naval Committee of the thirty-ninth Congress, and reported back to the House adversely. They are asked to be paid on the grounds that the duty was one which the navy agent ought not to have been required to perform; that it was a laborious duty, involving differences and pecuniary loss to the agent in his

accounts with the Treasury, and that the policy of Congress has been heretofore to make the additional compensation asked for in this case.

In considering these arguments, the committee find that the act of July 10, 1832, providing for the appointment of a navy agent at Washington, declares that "it shall be his duty to act as agent not only for the navy yard in this city, but for the Navy Department, under the direction of the Secretary thereof, in the payment of such accounts and claims as the Secretary may direct." It does not appear, therefore, that the agent was entitled to be exempt from this or any similar duty which the Secretary of the Navy might choose to assign him.

The ships' rolls, with descriptive lists of officers, seamen, and marines, were furnished to the agent, and when the claim of any one so found on the rolls, accompanied by sufficient evidence of identity and service, according to the prescribed rules of the Treasury Department, was presented, the agent had no other duty or labor therein than to pay the amount and make his accounts therefor with the Treasury. These were simple duties, easily understood, and accompanied by no other risk than that of paying on false evidence or insufficient identity. He was allowed sufficient clerical assistance to perform this duty.

But it is further urged that Congress passed an act for the relief of J. H. Lathrop, navy agent, at Washington, on the 3d of March, 1857, for \$7,957 25, and again on the 11th of June, 1858, for A. G. Allen, his successor, for \$12,566 77, appropriating those sums as additional compensation for this same duty. This is found to be the fact, but still, in the opinion of the committee, notwithstanding the policy which then obtained, it did not change the obligations of the navy agent nor establish the merits of this additional allowance.

The compensation of those agents was one per cent. on the amount disbursed, but not to exceed the maximum of two thousand dollars per annum.

By the act of March 3, 1855, two months and ten days after this memorialist had accepted the office of navy agent, Congress passed the following provision in the naval appropriation bill of the thirty-third Congress: "That in lieu of two thousand dollars per annum, the maximum compensation now allowed by law to navy agents, there shall be allowed two per centum commissions on the first hundred thousand dollars, or under, disbursed by them; and one per centum on every succeeding one hundred thousand dollars, or under, disbursed by them, until the compensation reaches the sum of three thousand dollars per annum, which amount shall be the maximum compensation for said agents: *Provided*, That the compensation named herein, shall be in lieu of all extra compensation for services of every nature and description rendered by navy agents by order of the Navy Department, from and after the passage of this act, nothing herein contained to be construed to reduce the salary of any navy agent under existing laws."

By this provision the compensation of these claimants was increased from two to three thousand dollars per annum, equal, then, with that of either one of "*the proper accounting officers of the Treasury*," and declared to be "*in lieu of all extra compensation for services of every nature and description rendered by navy agents by order of the Navy Department.*"

It is believed that this enactment was made partly through the solicitation of the memorialist, and in view of these facts the committee are satisfied that these claims now under consideration are, in every particular, without merit, and deserve no further consideration from Congress.

The committee recommend the passage of the following resolution:

Resolved, That the claims of Albert Greenleaf, William Flinn and S. P. Brown, late navy agents at the city of Washington, respectively, for extra compensation, be rejected.

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REPORT

CALVIN H. FREDERICK.

MARCH 25, 1870.—Laid on the table and ordered to be printed.

Mr. W. B. WASHBURN, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to which was referred the memorial of Calvin H. Frederick, late lieutenant colonel of the fifty-ninth regiment of Illinois volunteers, make the following report:

The claimant represents that he was commissioned as such officer on the 17th of June, 1861, by the governor of Illinois, and did duty thenceforward; but, through ignorance and inadvertency, was not mustered into the United States service until the 5th of August following, and asks an appropriation, for his pay and emoluments for the intervening period of one month and fifteen days, amounting to \$310.

There is no evidence before the committee that the claimant was not mustered in with his regiment or that he did any service for the government prior to his muster-in. By reference to the commission from the governor of Illinois, it is found to be true that the claimant is commissioned "to rank from the 17th day of June, 1861," but the commission itself is dated the 24th of December, 1862, and is no evidence that the claimant did any duty, or is entitled to any pay, prior to his muster into the United States service; but the impression is rather to the contrary.

The committee therefore report adversely, and recommend that the memorial lie upon the table, and that they be discharged from the further consideration thereof.

REPORT

MADE BY THE COMMITTEE ON THE LANDS AND MINES, TO THE HOUSE OF REPRESENTATIVES, IN 1872.

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REPORT

MADE BY THE COMMITTEE ON THE LANDS AND MINES, TO THE HOUSE OF REPRESENTATIVES, IN 1872.

The claimant represents that he was commissioned as such officer on the 11th of June, 1861, by the Governor of Illinois, and did duty there forward; but through ignorance and inadvertence, was not mustered into the United States service until the 5th of August following, and asks an appropriation, for his pay and allowances for the intervening period of one month and fifteen days, amounting to \$314.

There is no evidence before the committee that the claimant was not mustered in with his regiment or that he did any service for the Government prior to his muster. His references to the commission from the Governor of Illinois, it is found to be true that the claimant is entitled "to rank from the 11th day of June, 1861," but the commission itself is dated the 24th of December, 1862, and is no evidence that the claimant did any duty, or is entitled to any pay, prior to his muster into the United States service; but the impression is given to the committee. The committee therefore report adversely, and recommend that the memorial be upon the table, and that they be discharged from the further consideration thereof.

EDWARD BARTON AND OTHERS, OWNERS OF STEAMER ABE.

MARCH 25, 1870.—Laid on the table and ordered to be printed.

Mr. W. B. WASHBURN, from the Committee of Claims, made the following

REPORT.

[To accompany bill H. R. No. 164.]

The Committee of Claims, to whom was referred House bill No. 164, "to make compensation to Edward Barton, James Barton, sr., and John H. Barton, for damage done to their steamer Uncle Abe by the United States steamer Zouave," make the following report:

The bill provides for the payment to the claimants of the sum of nineteen hundred and ninety dollars and fifty-nine cents for damage to their steam-tug Uncle Abe, while in the military service of the government, by the steam-tug Zouave, of the United States Navy, under the following circumstances:

The government had chartered the steam-tug Uncle Abe in the military service under orders from Captain T. R. Dudley, an assistant quartermaster at Portsmouth, Virginia. On the afternoon of April 3, 1865, the Uncle Abe had been dispatched on duty from Portsmouth to Cape Henry, to deliver stores at that point, and was returning at 12 o'clock that night, when her master signaled, in the advance, the United States naval tug Zouave, which, instead of observing the signals, and allowing the Uncle Abe to pass, bore directly down, striking her amidships, and left her in a sinking condition. Her engine was able to be worked sufficiently to run her ashore, just below Craney Island light-house, where she was beached.

It is further alleged by the claimants, that Captain Kelty, a naval officer in command of the iron-side Roanoke, who had under his orders the tug Zouave, was on board at the time of the collision, and had turned-in intoxicated; that Captain J. L. Hayes, the commander of the Zouave, had been left ashore at Norfolk, intoxicated, whence the tug sailed at 11 o'clock that night; that the men on board in charge of the steamer were also intoxicated, and had grossly neglected their duty, by reason of which the claimants' tug was run into and injured.

The *ex parte* testimony submitted to the committee presents these circumstances and this extraordinary conduct on the part of naval officers, the absolute truth of which the committee are unable to determine. And inasmuch as the claimants may have their remedy in the Court of Claims, if these facts be true, which ought to be rigidly examined, the committee report the bill back, with recommendation that it do lie on the table, and that they be discharged from further consideration thereof.

REPORT OF THE SELECT COMMITTEE ON THE
MURDER OF MARTIN LUTHER KING, JR.

Submitted to the Senate and House of Representatives
in accordance with the resolution of the Senate and House of Representatives

AS PASSED BY THE SENATE AND HOUSE OF REPRESENTATIVES
ON MAY 17, 1968

REPORT

OF THE SELECT COMMITTEE ON THE
MURDER OF MARTIN LUTHER KING, JR.

The Committee on the Murder of Martin Luther King, Jr., was organized on May 17, 1968, by a resolution of the Senate and House of Representatives. The Committee was composed of the following members:

The Committee was organized to investigate the circumstances surrounding the murder of Martin Luther King, Jr., and to report to the Senate and House of Representatives. The Committee was organized to investigate the circumstances surrounding the murder of Martin Luther King, Jr., and to report to the Senate and House of Representatives.

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NATHANIEL TARR.

MARCH 25, 1870.—Laid on the table and ordered to be printed.

Mr. ELA, from the Committee of Claims, made the following

REPORT.

The Committee of Claims report adversely upon the claim of Nathaniel Tarr, from the fact that the claim is for damages sustained in trading operations in the Department of the South, in consequence of difficulties with the officers in command.

While his treatment seems to have been harsh, and a part of his loss from the destruction of property by soldiers, it presents no case which would warrant payment of damages.

NATHANIEL TARR.

MARCH 22, 1870.—Laid on the table and ordered to be printed.

Mr. TARR, from the Committee of Claims, reads the following

REPORT.

The Committee of Claims report adversely upon the claim of Nathaniel Tarr, from the fact that the claim is for damages sustained in trading operations in the Department of the South, in consequence of difficulties with the officers in command. While his treatment seems to have been harsh, and a part of his loss from the destruction of property by soldiers, it presents no case which would warrant payment of damages.

ALFRED M. BRIGGS.

MARCH 25, 1870.—Laid on the table and ordered to be printed.

Mr. ELA, from the Committee of Claims, made the following

REPORT.

The Committee of Claims reports adversely on the petition of Alfred M. Briggs.

Alfred M. Briggs, collector of internal revenue for the fourth district of California, praying that the Treasurer of the United States be directed to pay him the sum of \$5,922 56 to make his salary equal to \$4,500 per year for the years 1866 and 1867, your committee find that the collector of this district was allowed \$24,900 in lieu of commissions, provided the amount left after paying his assistants and expenses did not exceed \$4,500 for himself. In communicating to Mr. Briggs the amount allowed, they inform him that his statement of expenses, furnished in times past, was considered excessive, and the average shown by such statement considerably reduced in preparing the estimate to be allowed him in lieu of the commissions paid by law. The amount allowed him was near three times what the commissions on the sum collected would entitle him to recover and is believed to have been sufficient. We, therefore, report against making any further allowance.

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THE UNIVERSITY OF CHICAGO
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REPORT

THE UNIVERSITY OF CHICAGO
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THE UNIVERSITY OF CHICAGO
LIBRARY

JOHN R. READING.

MARCH 29, 1870.—Laid on the table and ordered to be printed.

Mr. CESSNA, from the Committee of Elections, made the following

REPORT.

To the honorable the House of Representatives of the Congress of the United States:

In the matter of the contested seat of John R. Reading, from the fifth congressional district of Pennsylvania.

The sub-committee of elections, to whom by virtue of the recent action of the House this case was referred, would respectfully report that they have carefully examined the evidence and arguments of the parties to this controversy and find the following to be the facts: At the election held October 13, 1868, in said district, the general returns show that John R. Reading, the incumbent, was returned as having received 13,199 votes, and the contestant, Caleb N. Taylor, 13,158 votes, leaving an apparent majority of 41 votes for the incumbent, besides which the contestant in his notice of contest (seventh specification) frankly admits that in the return from the third division of the Twenty-third ward 60 votes are returned for him which he did not receive, the true vote of the precinct being for contestant 209 votes, but returned 269, and this makes the actual majority for incumbent 101 votes. To this apparent majority, in the judgment of the committee, there should be added as follows, to wit: 23 votes made up as follows: 18 charged by incumbent and admitted by contestant; two others, Lewis Leisler and Jacob Moyer, found to be illegal by the committee; one vote not counted for incumbent by the election officers in Bristol, by reason of the misplacement of the sticker containing the name, and two tickets which were folded together, in Falls Township, counted for the contestant, but rejected by the committee. For this entire list of 23, together with the names of the witnesses, the pages containing the evidence and the causes of legality, see statement C, hereto attached. This would make the majority for the incumbent 124. He is, however, entitled to an additional credit of 13 votes on account of that number of persons who offered to vote for him and whose ballots were, in the opinion of the committee, improperly rejected. This increases his majority to 137. (See statement D, hereto attached.) Incumbent claims 1 additional vote in the eighth division, Twenty-second ward. On a careful examination of the general return, the hourly return, and the tally-list, the committee allows this credit, making his majority 138. He also claims a credit of 11 votes in the third division of the Twenty-fifth ward. The general return in this case gives contestant 231 votes; the hourly return agrees with the general return; the tally-

list, however, shows but 220 votes for contestant. No proof whatever is produced in this case except a copy of the tally-list from the prothonotary. This same list shows but 223 votes for the incumbent, while the general return gives to him 228 votes. This would give a loss to contestant of 11 votes, and a loss to incumbent of 5 votes, being a net gain for the latter of 6 votes. To allow this credit requires us to go behind the return. The incumbent having asked this at our hands should have called the officers of the election and shown the list of voters, or, at least, the aggregate thereof, or asked for a recount of the ballots. Nothing of this kind has been requested. On examining the tally-list of the seventh division, Twenty-third ward, we find an error of 6 against the contestant, or rather a difference of 6 between the tally-list and the returns from this precinct. We have, therefore, concluded to stand by the return in each case, especially as the correction of both would make no difference to either party.

The committee has allowed to the incumbent all that he claims thus far except the vote of one person improperly rejected, as he thinks. He claimed in all 14 of this class. The committee allowed him but 13, believing that John Burkett, of Salebury, was not a qualified voter. (See page 291, testimony of Watson and Kitchen.) He also attacked the votes of some 15 other persons which were cast for contestant, but in the judgment of the committee failed to prove them illegal. He attacked in all 37 votes, 22 of which charges are sustained by the committee and the other 15 overruled. (See statement F, hereto attached.) He also claims two other credits in his brief, one in the fourth division, Twenty-second ward, amounting to 13 votes, and the other in the sixth division, Twenty-third ward amounting to 8 votes. The general returns and the hourly returns in both of these cases correspond, and are against the claim set up by the incumbent. Here again he seeks to go behind the return. He has not produced the ballot-boxes, nor asked to have them examined. He has not called as a witness a single officer of the election at either precinct. He has not produced the list of voters at either of these precincts to show your committee how many persons voted. He asks these credits solely upon what he calls the tally-lists. He produces neither of the original tally-lists, and nothing which is certified by anybody to be a true copy of either of such tally-lists; but he does produce, in regard to the fourth division, Twenty-second ward, a certificate from the prothonotary of Philadelphia that "the above is a true and correct copy of the return of votes for member of Congress at an election held in fourth division of the Twenty-second ward, on the 13th day of October, 1868, *taken from the tally-list now on file in this office.*"

The aggregate or addition of votes at the end of this paper, is marked 175 for Reading, 410 for Taylor. The general return and the hourly return both give 171 for Reading, and 419 for Taylor. In the absence of all the proofs which might have been produced to explain these discrepancies and overthrow or change the return, the committee now proceed to give such circumstances as the papers before them furnish. Either the election officers did not keep any tally-list by units, or, if they did, the prothonotary has furnished no copy of the same in this case. Indeed, he does not pretend to make a full or true copy of the tally-list. The paper he sends contains X's, V's, and units for about one-half, and nothing but figures for the other half. The discrepancies between the returns and the so-called tally-list evidently occurred in the fourth hour. By a reference to this paper, called "tally-list," we find

that every hour except the fourth corresponds on the tally-paper with the hourly returns. In the fourth hour we find, however, for Reading, a letter appearing like a "V," then an X, followed by three units, thus, VXIII. This would count 18. Above this we find, first, the figures 13, then the 3 changed to a 4, and the 14 carried into the hourly return. The opinion of the committee is, that this V was intended as a unit, (I,) and this explanation would make all the papers correspond. The committee has examined all the so-called tally-papers sent by the prothonotary, and this is the only case in which the V is placed before the X. In regard to the supposed error in Mr. Taylor's favor on this tally-list, it also seems to have occurred in the fourth hour. We have there three X's, a V, and four units, thus, XXXVIII, and above these is written, first, in plain letters, 38. The 8 is then changed to a 9, and a cipher or ring drawn around the first X. The hourly return in this case shows 38 votes for Taylor. The second hour on the tally-list gives Taylor 90, while the figures above the tally in the hourly return give him 89. By counting the second hour 89, and the fourth hour 38, as shown by the hourly return, and taking either the tally-list or hourly return for the balance, Mr. Taylor received in this precinct 419 votes, being precisely what is given him by the general return.

The figures on this tally-list at the fourth hour show conclusively that the attention of the board was called to these discrepancies at the time, and the fair presumption is that the board acted honestly and made a correct return. At least the evidence offered against this return is, in the judgment of the committee, entirely insufficient to alter it, and the claim for this credit of 13 votes is not allowed.

The claim for the credit of 8 votes in the sixth division, Twenty-third ward, is entirely groundless. Here, again, the general return and the hourly return agree; no list of voters is produced, no officer of the election called, and the claim rests entirely upon a supposed discrepancy between the tally-list and the return. This discrepancy has no existence in fact. The paper produced is certified by the prothonotary as in the other case. It does not purport to be a full or true or correct copy of the tally-list, only "a correct copy of the return of votes *taken from the tally-list.*" The general return and the hourly returns give to Mr. Taylor 273 votes, and to Mr. Reading 174 votes. The tally-list gives to Mr. Reading 174 votes. About this there is no dispute. We are clearly of opinion that this same tally-list gives 273 votes to Mr. Taylor, and corresponds with the returns. An inspection of the paper itself will show that the tally for Mr. Taylor contains two lines or rows of units, the lower line having been made very short and small, the upper line long and heavy, the last eight units or strokes of the upper line running down into and upon the lower line or row of tallies; both sets of strokes, however, being distinctly visible, and showing that one tally and three units on the lower row of tallies are entirely covered by the large units contained in the upper row. This view of the case is strongly corroborated, and the conclusion made absolutely certain, by a comparison of the hourly return with the tally-list. In the first hour Mr. Taylor received 73 votes, and this is shown by the hourly return and by the tally-list itself. In the second hour he received 66 votes; in the third hour, 33 votes; in the fourth hour, 20 votes; in the fifth, 16 votes; in the sixth, 10; in the seventh, 19; in the eighth, 11; in the ninth, 11; in the tenth, 6; in the eleventh, 8. All these are clearly shown by the tally-list itself, as well as by the hourly return. To allow the credit here claimed would be to deprive Mr. Taylor of

8 votes cast for him during the last hour and contained in the general return, the hourly return, and the tally-list. This claim is therefore disallowed by the committee. The incumbent also claims a credit for 6 votes by reason of an error in the addition of the returns from the several precincts of the Twenty-second ward. On a careful examination of these returns, and the addition thereof, we think the claim is well founded, and allow to him the additional 6 votes.

We have now examined all the claims set up by the incumbent and disposed of the same, and found his majority arising from the questions thus far considered to be 144 votes. The contestant seeks to overcome this majority in various ways. He charges that several persons legally entitled to vote offered to vote for him and that their ballots were improperly rejected. Of this number, in the opinion of the committee, the contestant has clearly established his right to 4. (See statement E, hereto attached.) This reduces the majority of the incumbent to 140. He also charges that a large number of votes were cast for the incumbent by persons not legally entitled to vote; of this number 58 are admitted by the incumbent in his brief. (See statement A, hereto attached.) A careful examination of these 58 cases by your committee warrants the conclusion that these admissions were honestly made and for good cause. This reduces the majority to 82. In addition to the 58 admitted confessedly illegal votes, contestant charges that 105 other illegal individual votes were cast for incumbent. Of these the committee has sustained the charges against 51, and overruled them against the other 54. (For names, reasons, &c., of the 51, see statement hereto attached, marked B; for the names, &c., of the 54, see statement hereto attached, marked G.) The 51 votes found to be illegal by the committee were for various causes, such as non-residence, non-payment of tax, colonization, minority, fraudulent naturalization papers, alienage, &c. These cases were all so clear that the committee was unanimous except in regard to some 5 colonizers and 3 non-resident soldiers. No further explanation in regard to any class of these voters is deemed necessary, except in the case of the soldiers. It is in proof that 20 soldiers of the United States army, stationed at Frankford arsenal, voted for the incumbent in the eighth precinct of the Twenty-third ward. Had these men a right to vote there? It is entirely immaterial to discuss the question as to whether they could have voted elsewhere or not. The only question before us is as to whether they were entitled to vote at that particular poll, where the vote was actually cast. To entitle a person to vote at any poll in Pennsylvania, under the laws of that State, he must have at the time of the election an actual residence in the precinct. Mere personal presence will not fulfill the requirements of the law. There must be a residence, and it has been well settled that residence is a question of intention. Had any of those men any intention to be at that particular place, or in that particular precinct, on that or any other day? From the necessity of the case they could not. They were in that precinct not by their own volition, but by command of their military superiors. An order issued to transfer them to Fort Lafayette on October 1 would have taken them far away from the precinct. In the case of *Bowen vs. Given* it was expressly decided that an enlisted man did not gain a residence under similar circumstances. So too, in the case of *Howard vs. Cooper*, thirty-sixth Congress, Contested Election Cases, 1834 to 1865, page 275, it was held under the law of Michigan that to be entitled to vote a man must have come into the State and township or ward with the intention of making it his permanent residence, and the

law of Pennsylvania is quite as strict on this point as that of any other State, for if challenged at the polls the person offering the vote must also himself swear that his bona fide residence in pursuance of his lawful calling is within the district. (See Burden's Digest, Laws of Pennsylvania, edition of 1853, page 286 and page 46.) How could a man so swear when he is there at the command of a power superior to his own will? As bearing particularly upon this point we add that in 1862 a contest arose in the State of Pennsylvania in regard to the right of soldiers to vote in camp or in quarters. In the trial of this case the constitution of Pennsylvania and the several statutes of the State regulating this subject or question were fully and elaborately considered. The case is entitled Chase against Miller, and reported in 5 Wright, pages 403 *et al.* The supreme court of the State held—

First. That residence in the constitution is the same as domicile. The place where a man establishes his abode makes the seat of his property and exercises his civil and political rights.

Second. The right of a soldier to vote under the constitution is confined to the election district where he resided at the time of his entering the military service.

The opinion in this case, which is quite lengthy, and covers the entire ground, was delivered by Woodward, judge, and from it we quote. (The court below had decided in favor of the soldier's right to vote, and his judgment was being reversed by the supreme court.)

The learned judge deprecates a construction that shall *disfranchise* our volunteer soldiers. It strikes us that this is an inaccurate use of language. The constitution would disfranchise no qualified voter. But, to secure the purity of election, it would have its voters in the place where they are best known on election day. If a voter voluntarily stays at home, or goes a journey, or joins the army of his country, can it be said the constitution has disfranchised him? Four of the judges of this court, living in other parts of the State, find themselves, on the day of every presidential election, in the city of Pittsburg, where their official duties take them, and where they are not permitted to vote. Have they a right to charge the constitution with disfranchising them? Is not the truth rather this, that they have voluntarily assumed duties that are inconsistent with the right of suffrage for the time being? Such is our case, and such is the case of the volunteers in the army. The right of suffrage is carefully preserved for both them and us to be enjoyed when we return to the places which the constitution has appointed for its exercise. It is forcing a gratuitous assumption upon the constitution to treat it as intending that the volunteer in the public service shall carry his elective franchise with him wherever his duties require him to go. There is no word or syllable in the instrument to justify the assumption.

The views here expressed, and the judicial opinions here given, might, perhaps, exclude all, or nearly all, of these 20 votes. The committee, however, leaning always towards sustaining the right of suffrage, and giving always to the returned member the benefit of every doubt, have divided this list of 20 into three classes. The first class consists of persons who resided in this precinct at the time of their first enlistment, and consequently did not change residence. There are 3 of this class, to wit, James Cleary, Peter Hobin, and James Larkin, and their votes are allowed. The second class consists of those persons who had enlisted but once, who resided at the time of their enlistment outside of this precinct, and who had done nothing to indicate any determination on their part to change their residence, and who had made no election of this particular place as their place of residence since the time of their enlistment. On the contrary, 2 of this class testified that at the very time they voted their families resided elsewhere, and it is clearly proved that the entire class, 7 in number, left the place soon after the election, and have not returned. They were all single men except these 2 before referred to. Their names are Richard O'Leary, Owen Sheridan, Robert Armstrong, John Kennedy, John Laffey, Frederick Kopp, and

Lewis Bingham. These 7 votes are rejected, being a part of the 51. (See statement B.) The third class consists of those who did not reside in the district at the time of their enlistment, but remained for some years, in some cases re-enlisting once, twice, and in one case three times. Most of these men had either purchased or rented property; had families in the district, and had given other evidences of an intention to elect this precinct as the place of their abode. These 10 votes are allowed. The names of these voters were Samuel Getty, Patrick Ellison, Michael Farrel, Hugh McLaughlin, Edward Shields, Peter Held, Charles Fischer, Herman Gaffkin, James McGiven, and Benjamin Knowles. Deducting the 51 votes contained in statement B from the 82 majority heretofore shown in favor of incumbent, there remains a majority of 31.

The contestant claims 10 additional votes in the second division, Twenty-second ward. In this precinct the return shows for Reading 169; for Taylor, 159. William J. Canby, on page 87, swears that Mr. Taylor had 169 votes in this box; that he had 60 votes in the second hour, and that the judge struck off 10 votes from Mr. Taylor in the general return, and also in the return of the second hour, reducing the former to 159, and the latter to 60. Mr. Canby was one of the inspectors, and says this action was taken by the judge, against his protest, for the reason that there were more tickets in the box than there were names on the list of voters. In addition to this testimony, which is wholly uncontradicted, your committee has examined the general return which shows that 169 has been altered to 159, the 5 having been written over the 6. They also find that the hourly return shows precisely a similar alteration. They also find that the tally-list contains 169 votes for Mr. Taylor. This credit is therefore allowed, reducing the majority of the incumbent to 21 votes.

Contestant also claims 6 votes by reason of an error in the returns of the fourth division, Twenty-fifth ward, being, as he says, 3 too many for incumbent, and 3 less for contestant than he received; 552 persons voted at this poll. (See page 246.) The return shows 49 votes for Taylor and 501 for Reading. Mr. Taylor has called 52 witnesses (see his brief, page 20) who swear that they were qualified electors of this precinct, and that they voted for him. This of itself would give him 3 more votes than the return, and as these 3 could only come from those counted for Reading, would entitle Taylor to a credit of 6. This claim is very much strengthened by the production of the tally-list, which shows 50 votes for Taylor and only 496 for Reading. The error against Taylor cannot, therefore, be less than 6 nor more than 10, by reason of the miscount. The committee has adopted the lowest number, and allowed a credit for 6 votes, reducing the majority for incumbent to 15.

The contestant asks the committee to throw out the entire poll of Durham Township in the county of Bucks.

In this township it is proved that 12 persons voted for incumbent upon fraudulent naturalization papers. Most of these were furnished by Levi Black, the democratic inspector of election in that township. It is difficult to give credence to the alleged official acts of one so steeped in fraud as he is proved to be, violating his oath of office in the reception of votes known by him at the time to be illegal; delivering with his own hand certificates obtained by him, with a full knowledge of their fraudulent character, in secrecy, to the ignorant recipients, and encouraging them to violate the very law he was sworn to enforce. Eight of these papers are traced into his hands by the evidence; it is

W1W	W1	
o-o-o	o-o-o	
MA	MA	MA
W1W	W1W	W1W
o-o-o	o-o-o	o-o-o
MA	MA	MA

difficult to say that there may not have been more of the same kind. Criminal proceedings were commenced against these parties. Some of them ran away; 11 were arrested; of these, 3 plead guilty, 7 were convicted, and 1 was acquitted. The whole 10 were sentenced. Of these 15 alleged illegal votes, 10 have been admitted and are contained in statement A. Several more have been found illegal by your committee, and are contained in statement B. The other officers of this election have not been clearly implicated in this fraud, and the committee has concluded to overrule the objection made by contestant against this entire poll. Contestant claims a credit for 54 votes in the township of Bensalem, county of Bucks, by reason of an error or fraud perpetrated at that poll.

In this township 492 persons voted. (See testimony on page 270.) Of these, 319 were returned for incumbent, and 173 for contestant. Mr. Taylor has called and examined 190 qualified voters of that township, who testified that they had voted the entire republican ticket, and for Caleb N. Taylor for Congress. (See contestant's argument, pages 21 and 22.)

In addition to this he proves that 10 of the democratic tickets voted in said township contained the name of Caleb N. Taylor for Congress. Three of these he proves by the democrats who voted them, and the other 7 by Samuel H. Harrison, one of the election officers, (page 170.) Of these, the incumbent concedes to contestant 24, but it seems clear to your committee that if Mr. Taylor received 200 votes, as the proofs show he did, instead of 173, as shown by the return, he is entitled to 27 more, and the incumbent necessarily to 27 less, than the returns, making a clear gain to contestant of 54 votes at this poll. This would overcome the majority of the incumbent, and elect the contestant by a majority of 39 votes.

Your committee, however, cannot dispose of this district without further comment. We have just seen an undoubted error of 54 votes in the count. How many more democrats may have voted for Mr. Taylor it is impossible to tell. We have seen 6 illegal votes cast for incumbent admitted in his brief, (see statement A, last six names.)

We also find that 4 other illegal votes were polled for incumbent, as shown by statement B.

We find also that several efforts were made by contestant to secure the evidence of the officers of this election, and all without success. In order to counteract the legal presumption arising from their conduct in this particular, we find these same officers going at a time and place not known to nor named by contestant, in the absence of himself and his leading counsel, and requesting to be examined, although they knew at the time that another day and another place had been designated for the taking of their testimony. At another time we find a personal appeal made by contestant, to have their evidence taken at some future time, entirely disregarded and refused. Contestant charges that the ballot-box in this district was tampered with, that during the dinner hour a large number of republican tickets were abstracted from the box and an equal number of democratic tickets substituted in their stead. It is abundantly shown by the evidence that the opportunity was at least present if not purposely afforded to any one who might be willing to perpetrate this fraud. Although he has not been able to prove the exact method by which this feat was accomplished, yet when we consider the number of witnesses he has called and the extent of the fraud which he has been able to show, accompanied by the fact that

the officers who knew and who might have been able to explain, if innocent, were not called by incumbent, and the further fact that while the contestant was calling and examining his two hundred witnesses the incumbent called none, your committee can come to no other conclusion than that the claim of contestant to a credit for these 54 votes is clearly and fully vindicated.

The contestant also claims a credit for 53 votes cast by persons not assessed, and, as he charges, illegally received by the election officers of the fourth division, Twenty-fifth ward. The law of Pennsylvania on this subject is clear and explicit. It is contained in the sixty-sixth section of the act of July 2, 1839, and reads as follows:

In all cases where the name of the person claiming to vote is not found on the list furnished by the commissioners and assessor, or his right to vote, whether found there or not, is objected to by any qualified citizen, it shall be the duty of the inspectors to examine such person on oath as to his qualifications, and if he claims to have resided within the State for one year or more his oath shall be sufficient proof thereof; but he shall make proof by at least one competent witness, who shall be a qualified elector, that he has resided within the district for more than ten days next immediately preceding said election, and shall also himself swear that his bona fide residence, in pursuance of his lawful calling, is within the district, and that he did not remove into said district for the purpose of voting therein.

It is shown by the evidence, (page 47,) asserted by the contestant, (his brief, page 2,) and admitted by incumbent, (his brief, page 61,) that 61 persons who were not assessed in this precinct voted at the October election in 1868.

The duties imposed upon the officers of election when such votes are tendered are so plain and so explicit, and the reason so obvious, that it seems incredible when we are informed that it was systematically violated from the opening to the closing of the polls in this precinct. Of these 61 unassessed voters, 2, however—No. 62, Michael Fleming, and No. 353, James O'Donnell—are on the extra assessment. Of the remaining 59, Morrissey Heron, who voted No. 360, is Morris Ahern, assessed; Francis Harvey, who voted No. 310, is Francis Kearney, assessed; Thomas Madden, who voted No. 31, is assessed as Philip Madden; James McDonough, who voted No. 463, is assessed as John McDonough; Mitchell Cornell, No. 508, is E. M. Carnell, who is assessed; and No. 166, Daniel Hagerman, it is likely is intended for John Hagaman, who is assessed and voted, but whose name does not appear on the list of voters. This reduces the list to 53. Each one of these persons was required to be sworn or affirmed, and each of them was required to bring a qualified elector to testify to his residence for the proper time, and no vote could be legally received without these preliminary requirements were fulfilled. From the evidence before us it is impossible to say that the oaths required by law were administered during the day, and the witnesses called by the incumbent from these unassessed persons show that if the law had been fully or even partially complied with by the officers, by swearing the voter and examining him, many of their votes could not have been received. For examples: Edward Harraty, No. 272, over twenty-two, but never paid tax; Patrick Kathgan, No. 140; Urias Pearson, No. 374; Francis Mulvahill, No. 94; Christopher Mulvahill, No. 362; Edward Porterfield, No. 498; Michael Grundy, No. 282. All these persons swear that they paid a tax just prior to the October election, but not one of them was assessed, and under the constitution of Pennsylvania the tax must be assessed as well as paid. The issue of those receipts was fraudulent and the holders acquired no right by them which they did not possess without them. The

John McDevitt called by the incumbent did not prove the unassessed vote in that name, for there were 3 of that name, including the witness, assessed, and 4 voted. The evidence of Patrick Killroy will not answer for Patrick Gillroy, No. 358, while his name appears as No. 425.

In the case of *Read vs. Kneass* (2 Parsons, equity) the court of common pleas of Philadelphia struck out all the unassessed votes received without all the proofs directed by law. So, too, in the case of *Mann vs. Cassidy* (1 Brewster, 11) the same court again struck them out; and in the cases of *Batturs vs. Megary*, *Campbell vs. Leech*, and *Urwiler vs. Ballier*, (*Ibid.*, 162,) the court say: "Divisions in which the law has been entirely disregarded should be stricken out."

At the election in which the names of contestant and incumbent were submitted to the people of the fifth district as candidates for Congress, the names of Thayer and Greenbank were submitted as candidates for judge.

Mr. Greenbank was returned as elected and his election was contested. A committee of the senate and house of representatives of Pennsylvania, selected by law to try the case, declared Mr. Thayer legally elected, and in their decision threw out the entire poll of the very precinct we are now considering.

At the same election several city and county officers were also chosen. Both parties claimed to have elected their candidates to these positions. This resulted in a contest lasting for a considerable period of time. One of the points in these several contests was this same fourth division of the Twenty-fifth ward of Philadelphia. In deciding these cases the court said:

In the fourth division of the Twenty-fifth ward, we find:

First. Frauds in the records.

Second. Frauds in the boxes.

Third. Force at the poll.

Upwards of fifty persons voted who were not on the assessment list. Others are marked as voted who did not vote at all. A large proportion of the voters were foreigners, yet not one naturalization paper was produced. Only three vouchers and only two or three of the voters were sworn.

One officer marked up the book after the polls closed. There were a number of personations. A man who held an outside window-book was prevented from getting to the window to challenge, and after several efforts a deputy sheriff finally got the book from him. During one hour no questions were asked. None of these allegations are contradicted or even explained to my satisfaction, and I find it again a hopeless task to sift this poll. The views herein expressed as to the sixth and seventh divisions of the Seventeenth ward, and the fourth division of the Twenty-fifth ward, are concurred in by the president judge; but our brother, Judge Pierce, differs from Judge Allison and myself as to the effect of the testimony bearing upon these last three divisions. He is of the opinion that the evidence on this part of the case shows that challenges were regarded, vouchers required, and that the general provisions of the election law were complied with. These reasons influence his judgment to the conclusion that these polls should not be entirely rejected, but that they should be purged to the extent hereinafter indicated.

The same court in this same case, under the evidence before them, undertook to purge this poll and threw out 51 votes cast for the democratic candidates, being the votes of persons whose names were not contained upon the assessment list, and not including several single or individual votes rejected for other reasons. In this action of the court all the judges seem to have united.

In another part of the opinion of the court Judge Brewster uses the following language in reference to the very question now under consideration, to wit:

Another absolution of these wrongs has been invoked. It has been urged that if the person whose vote was legally received is now called and he swears that on the election day he lived in that division, the fraud is instantly purified. We do not so understand

the law. The statute challenges the man whose name is not on the list. It matters not that he is known to every man at the poll; the people of the whole commonwealth challenge his vote. The State steps in and says, "You shall comply with my law before that ballot passes into the box." His own oath of residence then would not be enough. Shall it avail afterward? At the poll he should produce a tax receipt, produce a voucher, and two oaths should be administered. This is all disregarded, and it is supposed that the defect is remedied if one of the four requirements is complied with when the case comes before the court. It is an answer to all this sophistry to say that while the law stands it is a part of our oath to enforce it; that an *ex post facto* obedience to *one* mandate cannot absolve the disregard of three other commands, and that frauds like these can only be purged by distinct and full proof as to every vote claimed in these divisions.

Incumbent in his brief charges that 6 of these unassessed votes were cast for contestant, 3 of those, to wit: Hilburn, Hageman, and Mitchell Cornell, have already been considered, proved, admitted, and deducted from the 61. The other 3 votes for Taylor, Robbins, Swann, and Snyder, proved their right to vote, and also proved that they were assessed. There may have been other persons of the same name, but inasmuch as that fact has not been clearly established we deduct these 3 from the unassessed list, which reduces it to 50. We also think that the weight of evidence establishes the fact that the following additional list of names should be deducted from the unassessed list, for the reason that the persons named thereon were entitled to vote, to wit: Peter Phillips, No. 333; P. Boyle, 413; Thomas Duffy, 446; Wm. McIntyre, 509; Peter Steelman, 511; Dennis Harkins, 23, may possibly have been intended for Edward Harkins; James Woonan, 241, possibly a mistake in the name; Edward Hauzgty, 272, is probably Edward Hauraty, who was one of the admitted illegal votes for Reading. These 8 votes being deducted from the 50 unassessed, as hereinbefore stated, will leave 42. There are still 9 others claimed to be proved by the incumbent, and which owing to similarity of names, possibility of errors in spelling, and a desire to err, if at all, in favor of the right of franchise, we have concluded to deduct from the list of unassessed voters. These are No. 243, Wm. Yanan or Yonam or Yunam; No. 61, Joseph Hedding or Hedden; No. 216, Samuel Ross; No. 538, Dolty Leonard; 379, Dennis Duffy; 424, Thomas McSorley or McSorely or McLorley; 457, Thomas McCusker or McCluskee or McCasker or McCoskey; 548, Thomas Coughy may be intended for Coffey, and No. 551, Patrick Connelly may be intended for Patrick Conlin. Deducting these 9 votes from 42 before remaining, we have left 33, which we credit to the contestant under this claim, making his majority 72 votes.

The committee desire to state that nearly all of the 20 names last deducted from the unassessed list of 53 in this precinct have been so deducted, not because clearly proved, but for the reason that some doubt was thrown around these several cases, and for the other reasons hereinbefore stated. In all of the 33 cases remaining and collected the proof falls entirely short, and would not have justified the election officers in receiving any of these votes.

The contestant also claims that the entire polls in the township of Bensalem, and in the fourth division of the Twenty-fifth ward should be rejected, and these returns entirely excluded from the count. But inasmuch as the determination of these questions, or either of them, in his favor, could only add to his majority, already clearly established, the committee has not determined these questions. In regard to them we only add that the fourth division, Twenty-fifth ward, was considered by a committee of both branches of the legislature of Pennsylvania, and the entire poll rejected. It was again considered by the court in Philadel-

phia, and two of the judges advocated the exclusion of the entire poll. The other two dissented from this view, but the whole court united in rejecting 51 unassessed voters in this precinct.

The township of Bensalem, in the opinion of the committee, presents a condition of things even more glaring and more dangerous than in the fourth precinct of the Twenty-fifth ward. No explanation has been given, indeed none has been offered, to account for the strange exhibition of fraud or mistake, or both, which occurred at this poll. It will, probably never be answered, and it is greatly to be hoped that it may remain forever unparalled.

RECAPITULATION.

Reading received by general return.....	13, 199
Votes offered for him and improperly rejected, (Statement D) ..	13
Error in addition, Twenty-second ward.....	6
Error in addition, eighth division, Twenty-second ward	1
Total.....	13, 219
Deduct illegal votes admitted, (Statement A).....	58
Deduct illegal votes proved, (Statement B).....	51
Deduct illegal votes, Bensalem.....	27
Deduct unassessed vote fourth division, Twenty-fifth ward	33
	160
Total vote for Reading.	13, 050
Taylor received by general return.....	13, 158
Votes offered for him and improperly rejected, (Statement E) ..	4
Error in addition and return, fourth division Twenty-fifth ward ..	6
Error in addition and return, Bensalem.....	27
Error in return, second precinct, Twenty-second ward.....	10
	13, 205
Deduct error in third division, Twenty-third ward.....	60
Deduct illegal votes, errors in count and tickets, (Statement C).....	23
	83
Total vote for Taylor.....	13, 122
Total vote for Reading.....	13, 050
Taylor's majority.....	72

The committee, therefore, offer the following resolutions :

Resolved, That John R. Reading is not entitled to a seat in this House as representative from the fifth congressional district of Pennsylvania.

Resolved, That Caleb N. Taylor is entitled to a seat in this House as representative from the fifth congressional district of Pennsylvania.

All of which is respectfully submitted.

APPENDIX.

A.—Illegal votes cast for incumbent, admitted in his brief.

No.	Name of voter.	Place of voting.	Witnesses.	Page.	Remarks.
PHILADELPHIA.					
1	John Fischer	2d div., 22d ward	John Fischer	78, 79	Non-resident.
2	Daniel Farley	5th div., 25th ward	Daniel Farley	88	Fraud. nat. papers.
3	Ransler Barber	do	John C. Sees	226	Non-resident.
4	William S. Youell	4th div., 25th ward	William S. Youell	225	Alien.
5	Owen McGovern	do	Owen McGovern	230	Do.
6	Edward Hauraty	do	Edward Hauraty	374	Non-payment tax.
7	Thomas O'Brien	do	Lydia Scull	66	Non-resident.
8	James Brogan	do	Ellen Fitzpatrick	67	Do.
9	James Short	do	Mary Gallagher	67	Do.
10	George W. Myers	do	George W. Myers	68	Personated.
11	Peter Farrel	do	Peter Farrel	68	Do.
12	Edward McVey	do	Edward McVey	68	Do.
BUCKS COUNTY.					
13	Henry Reinheimer ..	Milford Township ..	{ Joseph Miller	16, 18, 25	Minor.
			{ Henry Reinheimer ..		
			{ Allen Sherer		
14	Christopher Ratican ..	do	{ James Cressman	22, 23,	Pauper from alms-
			{ S. W. Weiss		
			{ W. Weil	195	house.
15	Henry Althouse	do	{ James Cressman	22, 23,	Pauper from alms-
			{ S. W. Weiss		
			{ W. Weil	195	house.
16	Frederick Frash	Warminster	{ James Cressman	22, 23,	Pauper from alms-
			{ S. W. Weiss		
			{ W. Weil	195	house.
17	Allen Sherer	Milford	Allen Sherer	24	Minor.
18	George Keller	Haycock Township ..	{ George Keller	28, 196	Non-resident.
			{ S. B. Thatcher		
19	George N. Patrick	do	George N. Patrick	217	Alien.
20	Samuel R. Eggert	do	{ S. R. Eggert	196, 199	Non-payment tax.
			{ S. A. Smith		
21	Daniel Harrity	Lower Makefield	Daniel Harrity	180	Do.
22	William Burk	do	William Burk	179, 180	Do.
23	John Paul	Bristol Township ..	John Paul	181	Alien.
24	John Weaver	Bristol borough	{ J. B. Pennington	181, 182	Non-payment tax.
			{ J. S. Tomlinson		
25	J. K. Polk Parry	do	J. S. Tomlinson	182	Non-resident.
26	Richard Welch	do	Richard Welch	185	Fraud. nat. papers.
27	James K. Polk Evans ..	Southampton	{ J. K. P. Evans	189, 191	Non-resident.
			{ J. C. Evans		
28	Henry Runt	Tinicum	Henry Runt	201	Alien.
29	William Emory	do	William Emory	205	Non-payment tax.
30	George Streepy or Strebick	Nockamixon	F. Strebick	203	Minor.
31	William Amendt	do	William Amendt	203	Non-resident.
32	George Myers	do	George Myers	204	Non-payment tax.
33	Michael Rupel	Bridgeton	Michael Rupel	204	Do.
34	Levi L. Diley	Richland	Levi L. Diley	208	Minor.
35	G. Dallas Niblick	Buckingham	G. D. Niblick	210	Non-payment tax.
36	John O. Service	Doylestown borough ..	John O. Service	210	Do.
37	William Moore	Warminster	William Moore	212	Do.
38	George Alhoff	do	{ George Alhoff	212, 213	Do.
			{ Robert Beans		
39	Jacob Fisher	do	{ Jacob Fisher	213	Do.
			{ Robert Beans		
40	Charles M. Amey	New Hope	{ Charles Mathews	214, 215	Minor.
			{ John Pitcock		
41	George Wolfington ..	Hilltown	George Wolfington ..	216	Do.
42	John Cogan	Quakertown	{ Richard L. Bruff	222, 228	Non-resident.
			{ S. J. Levick		
43	Nicholas Gibney	Durham	} Fraudulent naturali- zation papers fur- nished by Levi Black, democratic inspector of elec- tion.	159, 160,	Fraud. nat. papers.
44	Michael Welsh	do		162, 163,	
45	Patrick Ward	do		164, 165,	
46	John Quinn	do		208, 210,	
47	Dennis Cleary	do		209, 218,	
48	Richard Skain	do		235, 237,	
49	Edward Delahanty ..	do		238	
50	Henry Minnebach ..	{ do	Patrick Sexton	160, 161,	Do.
51	Patrick Sexton	{ do		208, 218,	
				206 225	
52	John Fogarty	do	B. F. Fackenthall ...	208	Do.

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No.	Name of voter.	Place of voting.	Witnesses.	Page.	Remarks.
BUCKS COUNTY—Con.					
53	James Barlow.....	Bensalem.....	W. H. Paxon.....	140	Non resident.
54	Nathan Rambeau.....	do.....	J. W. Walton.....	156	Do.
55	David Hess.....	do.....	David Hess.....	166	Minor.
56	Thomas Fox.....	do.....	Thomas Fox.....	167	Alien.
57	Thomas Hooper.....	do.....	Thomas Hooper.....	171	Non resident.
58	Theodore Jones.....	do.....	{ Albert Taylor..... S. H. Harrison..... }	171	Minor.

In addition to the above he (incumbent) admits, in brief, that contestant is entitled to a credit of twenty-four votes in Bensalem township—making in all eighty-two votes admitted illegal by incumbent.

B.—*Illegal votes cast for incumbent in the twenty-second, twenty-third, and twenty-fifth wards of Philadelphia and in Bucks County, not admitted in his brief, but proved by the evidence, in the judgment of the committee.*

No.	Name of voter.	Place of voting.	Witnesses.	Page.	Remarks.
PHILADELPHIA.					
1	Nicholas Bitner.....	1st div., 22d ward....	Thomas F. Middleton	121	Fraud. nat. papers.
2	Lawrence Kelly.....	4th div., 22d ward....	Alexander P. Keyser	114	Non-resident.
3	Andrew Brown.....	7th div., 22d ward....	{ Rev. J. H. M. Knox Thomas Dutton..... William Dunlap..... }	83, 117	Minor.
4	Richard Doubleday..	10th div., 22d ward..	{ R. Doubleday..... Thomas Dutton..... }	83, 84	Not naturalized.
5	William Calder.....	1st div., 22d ward....	Thomas F. Middleton.	121	Non-resident.
6	William Childs.....	5th div., 22d ward....	{ Thomas Dutton..... William Hopkins.... }	83, 124	Minor.
7	George Finder.....	do.....	George R. Krickbaum	120	Fraud. nat. papers.
8	Joseph Lukens.....	7th div., 22d ward....	William Dunlap.....	117	Minor.
9	James McLaughlin..	7th div., 23d ward....	{ E. F. Dungan..... Jesse H. Cottman... }	111	Not in State long enough.
10	Richard O'Leary....	8th div., 23d ward....	{ Richard O'Leary.... W. K. Pigott..... S. Getty..... }	94, 97, 369	Soldier.
11	Owen Sheridan.....	do.....	{ Owen Sheridan..... W. K. Pigott..... W. Taylor..... S. Getty..... }	95, 97, 110, 369	Do.
12	Robert Armstrong..	do.....	{ Patrick Ellison..... W. K. Pigott..... }	95, 97	Do.
13	John Kennedy.....	do.....	{ John Kennedy..... W. K. Pigott..... }	96, 97	Do.
14	John Laffey.....	do.....	{ John Laffey..... W. K. Pigott..... }	97	Do.
15	Frederick Kopp.....	do.....	{ W. K. Pigott..... S. Getty..... }	97, 360	Do.
16	Lewis Bingham.....	do.....	{ W. K. Pigott..... S. Getty..... }	97, 369	Do.
17	George Mott.....	1st div., 25th ward....	Theodore F. Weyser..	123	Not long enough in division.
18	Owen McKenna.....	2d div., 25th ward....	{ William Sargent.... Owen McKenna..... John Schickling.... }	109, 361	Non-resident.
19	John Schickling....	5th div., 25th ward....	{ John Bergman..... John Hauseman..... }	106, 107	Minor.
20	Patrick Collins.....	do.....	John C. Sees.....	226	Non-resident.
21	William Concious....	do.....	John C. Sees.....	226	Fraud. nat. papers.
22	Washington Gandy..	4th div., 25th ward....	Washington Gandy...	68	Personated.
23	Daniel Harkins.....	do.....	Daniel Harkins.....	220	Do.
24	Thomas McGovern....	do.....	Mary A. McGovern..	221	Personated, dead.
25	John McIlvaine.....	do.....	John McIlvaine.....	72	Fraud. nat. papers.
26	James McKenna.....	2d div., 22d ward....	Louis Wagner.....	84, 85	
BUCKS COUNTY.					
27	Alkanus Markley....	Milford Township....	{ Alkanus Markley... Stephen Ortt..... Peter Kline..... }	15	Colonizer
28	Henry Miller.....	do.....			Do.
29	John Heller.....	do.....		27	Do.
30	Enos Wolf.....	do.....			Do.
31	Isaac Blank.....	do.....		28	Do.
32	Henry Kresimer.....	do.....			Do.

B.—*Illegal votes cast for incumbent, &c.—Continued.*

No.	Name of voter.	Place of voting.	Witnesses.	Page.	Remarks.
	BUCKS COUNTY—Con.				
33	John Giffen	Milford Township ..	{ John Giffen	20, 196	Non-payment tax.
			{ Summers A. Smith ..		
34	Israel Correll	do	{ Israel Correll	21, 23	Non-resident.
			{ James Cressman	198	
35	John Dill	do	{ William M. Schaffer ..	18, 23	Colonizer.
36	Nathaniel Reiter	do	{ James Cressman		Do.
37	Jacob Bartholomew ..	Haycock Township ..	{ J. Bartholomew	28, 29	Non-resident.
			{ S. B. Thatcher		
38	Benjamin Foster	Bensalem Township ..	{ Benjamin Foster	166	Do.
39	Thomas Willard	do	{ Thomas Willard	167	Non-payment tax.
40	Thomas Terry	do	{ Thomas Terry	171, 172	Do.
41	L. H. Vandegrift	do	{ L. H. Vandegrift	167	Do.
42	John Weaver	do	{ John Worrell	187	Non-resident.
43	Keron Turley	Durham Township ..	{ Levi Black	209-218	Fraud. nat. papers.
44	Thomas Garrigan	do	{ Thomas Garrigan	207	Do.
45	Edward Høeding	Bristol borough	{ J. S. Tomlinson	182, 183	Alien.
			{ Albert Høeding		
46	Thomas Kiernan	do	{ Thomas Kiernan	186	Fraud. nat. papers.
			{ J. S. Stackhouse		
47	James C. Cornell	Middleton Township ..	{ E. G. Harrison	173, 188	Non-payment tax.
			{ John P. Thompson	194	
48	John Bolstenhart ...	Northampton Tow'p ..	{ Jesse B. Twining	192, 199	Fraud. nat. papers.
			{ Charles Craven	230	
			{ James W. Bartlett		
49	Matthew Gorman	do	{ Thomas Swezey	194, 199	Do.
			{ Charles Craven		
50	John Summers	Tinicum Township ..	{ John Summers	201	Minor.
			{ Isaac Summers		
51	Andrew Ruple	Bridgeton district ...	{ S. A. Smith	202, 205	Non-payment tax.
			{ S. C. Pursell		

In Philadelphia, 26; in Bucks County, 25—total, 51.

C.—*Illegal votes cast for contestant, admitted in his brief.*

No.	Names of voters.	Place of voting.	Witnesses.	Page.	Remarks.
1	Frank McDonald ...	4th div., 22d ward...	{ F. McDonald	324, 328	Probably a minor.
			{ J. R. White		
2	Frank Burns	5th div., 22d ward...	{ F. Burns	314	Non-resident.
3	Chas. M. Burns, sr. ...	do	{ C. M. Burns, sr.	314	Do.
4	Chas. M. Burns, jr. ...	do	{ C. M. Burns, jr.	314	Do.
5	John Carson	10th div., 23d ward...	{ John Carson	335	Non-payment tax.
6	Charles G. Hall	do	{ C. G. Hall	336	Fraud. nat. papers.
7	Edgar Adam	Newportville, Bucks County.	{ E. Adam	290	Not in State long enough.
8	George C. Bond	Solebury, Bucks Co. ..	{ G. R. Lear	292, 293	Do.
			{ R. L. Cope		
9	Thomas Farley	do	{ F. Farley	293	Do.
10	Robert Prior	Lower Wakefield, Bucks County.	{ C. Vansant	294, 336	Do.
			{ R. Prior		
11	John Radford	do	{ R. Prior	336, 355	Do.
			{ J. Radford		
12	William Kirkham ..	do	{ W. Kirkham	295	Do.
13	Sickler Griskler	Northampton, Bucks County.	{ H. Lefferts	297	Alien.
14	George Smith	Warrington, Bucks County.	{ Lydia Smith	298	Minor.
			{ G. Smith		
15	Tilghman Gottschalk ..	New Britain, Bucks County.	{ R. Godshalk	291, 358	Do.
			{ T. Godshalk		
			{ E. M. Russell		
16	John Rafferty	Bristol	{ John Rafferty	184, 185	Alien.
17	Alex. P. Mercer	10th div., 22d ward...	{ William Swemm	312	Fraud. nat. papers.
18	Thomas W. Finney	Bristol Township ..	{ J. S. Stackhouse	289	Alleged non-resd't.
19	Two tickets folded together	Falls Township	{ Lovett	290	
20	Do	do	{ do	290	
21	One, (improperly rejected,) stitcker.	Bristol	{ Riching	296	
22	Lewis Leisler	6th div., 22d ward...	{ Albright Clark	300, 301	
23	Jacob Moyer	do	{ do	300, 301	

D.—List of persons who offered to vote for incumbent, and were improperly rejected.

No.	Name of voter.	Place of voting.	Page.
1	Thomas McMann	Middletown	301, 399, 405
2	Christ. Hollander	Lower Wakefield	294
3	Patrick Lee	9th division, 22d ward	315
4	Francis Roach	5th division, 22d ward	321, 406
5	Harper Yerkes	2d division, 23d ward	331, 332
6	Christian Schlitt	Middletown	340
7	Thomas Boyle* .....	.....	.....
8	Patrick Conway* .....	.....	.....
9	Michael Preill* .....	.....	.....
10	Martin Hunt* .....	.....	.....
11	Charles McNally* .....	.....	.....
12	Charles McDermott* .....	.....	.....
13	John Sweeney* .....	.....	.....

* See Brightly's testimony, on pages 364, 366, relative to 6th division, 22d ward.

E.—List of voters who offered to vote for contestant, and were improperly rejected.

No.	Name of voter.	Place of voting.	Page.	Remarks.
1	John W. Penn	4th division, 25th ward	73	.....
2	George Weiss	Milford Township	19, 26	.....
3	Leidy Landis	Milford Township	19, 25	.....
4	Mahlon Fretz	W. Rockhill Township	30	Vote destroyed by officers.

F.—Alleged illegal votes cast for contestant, denied in his brief, and not proved by the evidence to have been illegal.

No.	Name of voter.	Place of voting.	Page.	Remarks.
1	Samuel Ely	Upper Wakefield	295, 296	Attacked on residence.
2	Jacob Freeman	Northampton	27, 298	Alleged non-payment of tax.
3	Thomas Clayton	Lower Wakefield	355	No proof for whom vote cast.
4	Yardley Tomlinson	Middletown	302, 337, 338	Perfect right to vote.
5	William T. Blakely	Middletown	338, 339	.....
6	George S. Repplier	2d division, 22d ward	307	Had right to vote.
7	Samuel S. White	2d division, 22d ward	308	Do.
8	George Reilly	4th division, 22d ward	320, 321	Do.
9	Joseph Applin	5th division, 22d ward	322, 323	Do.
10	John H. Budd	2d division, 23d ward	326	Do.
11	John Gardner	2d division, 23d ward	327	Do.
12	Robert Henry	2d division, 22d ward	328	Do.
13	Jonathan Walton	2d division, 23d ward	329, 334	Do.
14	William Cook	2d division, 23d ward	330	Do.
15	John Stout	Milford Township	198	Do.

G.—Votes cast for incumbent and charged as illegal by contestant, but in the judgment of the committee not clearly proved illegal by the evidence.

No.	Name of voter.	Place of voting.	Witnesses.	Page.	Remarks.
1	Thomas Gallagher	4th div., 22d ward	{ Alex. P. Keyser	114, 118,	Non-resident and
			{ Wm. Joyce	123	fraudulent naturalization papers.
2	James Owens	5th div., 22d ward	{ Edwin Markley	120	Fraud't nat. papers.
3	Quiren Eckfeldt	8th div., 22d ward	{ Geo. R. Krickbaum	120, 121	Fraud't nat. papers.
4	Jacob Gomeringer	9th div., 22d ward	{ C. B. Guyger	118	Non-resident.
5	John O'Brien	2d div., 22d ward	{ W. Hergesheimer	81	Fraud't nat. papers.
6	Charles Hughes	6th div., 23d ward	{ John O'Brien	112, 113	Non-payment of tax.
7	Samuel Getty	8th div., 23d ward	{ Charles Hughes	91, 369,	Soldier.
			{ S. Getty	370, 97	.....
8	Patrick Ellison	8th div., 23d ward	{ W. K. Pigott	92, 97	Soldier.
			{ Patrick Ellison .....	.....	.....
9	Michael Farrel	8th div., 23d ward	{ W. K. Pigott	92, 97	Soldier.
			{ Michael Farrel .....	.....	.....

G.—Votes cast for incumbent and charged as illegal by contestant, &c.—Continued.

No.	Name of voter.	Place of voting.	Witnesses.	Page.	Remarks.
10	Hugh McLaughlin.	8th div., 23d ward.	{ Hugh McLaughlin..... W. K. Pigott.....	92, 97	Soldier.
11	Edward Shields....	8th div., 23d ward.	{ Edward Shields..... W. K. Pigott.....	93, 97	Soldier.
12	James Clary	8th div., 23d ward.	{ J. Clary..... W. K. Pigott..... Samuel Getty.....	93, 97 370	Soldier.
13	Peter Hobin	8th div., 23d ward.	{ Peter Hobin..... W. K. Pigott.....	94, 97	Soldier.
14	Peter Held.....	8th div., 23d ward.	{ P. Held..... W. K. Pigott..... Samuel Getty.....	94, 97 369	Soldier.
15	Charles Fisher.....	8th div., 23d ward.	{ Charles Fisher..... W. K. Pigott.....	96, 97	Soldier.
16	Herman Gafkin....	8th div., 23d ward.	{ Herman Gafkin..... W. K. Pigott.....	96, 97	Soldier.
17	James Larkin.....	8th div., 23d ward.	{ James Larkin..... W. K. Pigott.....	97	Soldier.
18	James McGivin....	8th div., 23d ward.	{ W. K. Pigott..... S. Getty.....	97, 369	Soldier.
19	Benjamin Knowles.	8th div., 23d ward.	{ W. K. Pigott..... S. Getty.....	97, 369	Soldier.
20	James Britt or Butt.	5th div., 25th ward.	John C. Sees.....	226	{ Refused to answer election officers.
21	A. J. McLea	6th div., 25th ward.	A. J. McLea.....	105, 6	Non-payment of tax.
22	Joseph S. Eckley ..	6th div., 25th ward.	Joseph S. Eckley.....	106	Non-payment of tax.
23	Daniel Lennan.....	3d div., 25th ward.	Thomas Dickson.....	104	Non-resident.
24	Joseph Greer	4th div., 25th ward.	Joseph Greer.....	225	Alien.
25	John Murphy.....	4th div., 25th ward.	John Murphy.....	104	Personated.
26	James Keating	8th div., 22d ward.	J. Keating.....	366	Fraud't nat. papers.
27	Thos. McSorley	4th div., 25th ward.	.....	111	
28	Jas. Fulham	2d div., 25th ward.	.....	108	
29	Adam Pretty	2d div., 22d ward..	Louis Wagner.....	84, 85, 86	
30	John Gallagher	2d div., 22d ward..	.....	85	
31	William Shipe .....	.....	{ James Cressman..... Samuel W. Weiss..... Isaac G. Gerhart.....	22, 23, 26	Non-resident.
32	William Henry	Bensalem towns'p.	William Henry.....	168	Refused to answer.
33	Mich'l McNinney, jr	Durham township.	{ Nicholas Gibney..... Levi Black..... Exhibit No. 23.....	208, 209, 235	Fraud't nat. papers.
34	James Cowley	Durham township.	{ Nicholas Gibney..... Levi Black.....	161, 209 235	Fraud't nat. papers.
35	Thomas Coyle.....	Durham township.	Thomas Coyle.....	207	Fraud't nat. papers.
36	William Gregg	Durham township.	{ A. S. White..... S. A. Neeld.....	177, 181	Non-resident.
37	John M. Hooper ...	Falls township....	Theo. F. Burton.....	173	Non-resident.
38	David Green.....	Falls township....	David Green.....	180	Non-payment of tax.
39	Thomas B. Jones ..	Morrisville boro'	Thomas B. Jones.....	178	Non-resident.
40	Wm. Vansant, No.1.	Bristol borough...	J. S. Tomlinson.....	182	Non-payment of tax.
41	John Casey	Bristol borough...	John Casey.....	187	Fraud't nat. papers.
42	Theodore Baker ...	Bristol borough...	{ Theodore Baker..... Andrew Schaffer.....	173, 175	Alien.
43	Edmund C. Wells..	Southampton twp	Edmund C. Wells.....	189	Non-payment of tax.
44	Joseph Drum	Northampton twp	Joseph Drum.....	191	Fraud't nat. papers.
45	Nicholas Hayden ..	Northampton twp	{ Jesse B. Twining..... Charles Craven.....	192, 199	Fraud't nat. papers.
46	John D. Erwin.....	Northampton twp.	{ Jesse B. Twining..... Charles Craven.....	192, 200	Non-resident.
47	John McAvoy	Northampton twp	John McAvoy.....	193	Fraud't nat. papers.
48	Anthony Storm....	Nockamixon twp.	{ S. A. Smith..... Antoin Storm.....	202, 204	Non-payment of tax.
49	Levi M. Pickle.....	Bridgeton district.	{ S. A. Smith..... Isaac McCarty..... S. C. Purcell.....	202, 206, 209	Non-payment of tax.
50	Lawrence Senter...	Warrington twp..	{ Lawrence Senter..... Geo. M. Garner.....	211, 212	Non-resident.
51	Peter Higgins.....	Upper Makefield..	{ A. Williams..... T. J. Doan..... Jacob Magill.....	213, 214	Non-resident.
52	Samuel Amey.....	New Hope boro'...	{ W. P. Magill..... John Pidcock..... Jacob Magill..... John Pidcock.....	215, 217	Non-resident.
53	Jacob Bratzen	New Hope boro'...	{ Jacob Magill..... John Pidcock.....	215	Alien.
54	Cha's Montgomery.	Bensalem	C. Montgomery.....	168	No tax.

JOHN R. READING.

APRIL 4, 1870.—Ordered to be printed.

Mr. RANDALL, from the Committee of Elections, submitted the following

AS THE

VIEWS OF THE MINORITY.

The majority of the sub-committee of the Committee of Elections have reported to the House (see report No. 50) that in the above case, in their judgment, Caleb N. Taylor, the contestant, received a legal majority of seventy-two votes over John R. Reading, the returned member from the fifth congressional district of the State of Pennsylvania for the forty-first Congress.

I differ from the conclusion arrived at by them, and proceed to state, in detail, the points of difference.

1.—COLONIZER VOTE IN MILFORD TOWNSHIP, BUCKS COUNTY.

I think the committee erred in charging the votes in appendix of report, Schedule B, from number twenty-eight to number thirty-two, inclusive, *five votes* as *illegally* cast for the sitting member, to wit: the names of *Henry Miller, John Heller, Enos Wolf, Isaac Blank, Henry Kresimer*. There is no proof that they voted anywhere, and certainly none that they voted in Milford Township. Alkanus Markley, who admits himself to have been a colonizer, and to have voted, distinctly states that he does not know that any of the five voted; while Stephen Ortt and Peter Kline (all witnesses for the contestant) testify to the same effect. It is nowhere shown that either of these five persons voted, but is distinctly sworn to by the above named witnesses, who were about the polls *all day*, and who *knew the men*, that they did not *see* or *know* of any of them voting. Had these men voted, it could have been readily shown by the contestant filing of record a certified copy of the list of voters of said township. In the absence of this list (filed in the case of other precincts or divisions, where illegal votes were charged against the incumbent by the contestant) and of any testimony in any way connecting these names with the fact of voting, these five votes are wrongly charged against the sitting member. These five votes, deducted from the seventy-two alleged by the majority of the committee to be the contestant's legal majority, reduce that alleged majority to *sixty-seven*.

The following testimony is all that bears upon the question of these five votes excepted to, and on which the majority of the committee resolved to charge these against the sitting member.

Testimony, pp. 15 and 16 :

ALKANUS MARKLY, the above-named witness, being duly sworn according to law, deposes and says:

I live in Upper Hanover Township, Montgomery County ; I have lived in Montgomery County about twenty-two years. There were six of us came from Montgomery County into Bucks County, at the last October election, for the purpose of voting. They were myself, Henry Garis, *Isaac Blank*, *John Heller*, *Henry Wismer*, *Enos Wolf*. *Henry Miller* was also one of the party ; they came from the neighborhood of Hoppenville, Montgomery County ; we came to Gearysville. Gearysville—I don't know—I think is in Milford Township ; I don't know whether the whole party voted ; I did not see them vote ; I did not see any one put in a ticket ; I did vote ; I voted for Reading for Congress ; I don't know the persons who gave tickets to the other parties ; I came over to make my home there, to work at cigars. * * *

Question. Did you mean, in answer to Mr. Simpson's question, to say that the whole of this party came to Gearysville to work at cigar-making, or to vote in Milford ?—Answer. They did not all come over to work at cigars, but I don't know whether they came to vote. I came over to work and to vote. The ticket I voted was in German, and I cannot read German—I can read English. When I got my ticket I opened it and it was German. The person who gave it to me said it was for Dr. Reading. * * *

Q. Did you not tell Mr. Yardly that you saw these persons vote, and that Mr. Hoffman gave them the tickets that they voted ?—A. I only said that I saw Mr. Hoffman give them the tickets. Mr. Hoffman's name is Joseph.

Testimony, p. 27 :

STEPHEN ORTT, a witness called by contestant to be examined under twenty-sixth specification, being duly affirmed, says :

I reside in Milford Township, Bucks County. I voted at the general election in October last, in Milford.

Question. Have you any knowledge of any one voting at said election who was not qualified by law to vote ?—Answer. No, sir.

Q. Have you any knowledge of any one being induced to come into Milford Township to vote at said election ?—A. No, sir.

Q. Don't you know, Mr. Ortt, of parties coming from Montgomery County to vote at that election ?—A. No, sir.

Q. Do you know *Henry Miller*, residing in Montgomery County, a teacher ?—A. I do.

Q. Do you know of his being induced to come from Montgomery County to the Milford election ?—A. No, sir. I don't know whether he voted. He lives in Montgomery County, either in Marlborough or Upper Hanover Township. He has lived there in Montgomery County as long as I know him. I know *John Heller*. He lives in Montgomery County, in Upper Hanover Township. He has lived there between two and three years. I do not know whether he voted. I do know *Enos Wolf*. He resides in Montgomery County now. He has resided there about two years. I don't know of a Mr. Wolf's voting at the election. I know *Isaac Blank*. He lives in Montgomery County. He has lived there about eight years, with his father. I do not know of his voting at the October election. I do know *Henry Kresimer*. He resides also in Montgomery County, Upper Hanover Township. I do not know whether he voted at the October election. * * *

Testimony, p. 28 :

PETER KLINE, a witness called by the contestant to be examined under same specification, being affirmed, says :

I know *Henry Miller*, *John Heller*, *Isaac Blank*, *Alkanus Markley*, and *Enos Wolf*. Came from Montgomery County into Bucks County to vote, as far as I know. I don't know when they came from Montgomery County to Bucks County to vote. They came over to vote ; I don't know what for. I heard it said that they had more in Montgomery County than they wanted ; and that is the reason why they came over. I have not heard it said which party had enough in Montgomery County. I know these men. I reside about two miles from Gearysville.

Q. What were the politics of the men spoken of ?

(Objected to.)

A. I don't know ; can't say.

Cross-examined by Mr. COPE for incumbent :

All I know about these men is what I heard other people say.

Question by Mr. THAYER :

A. No, sir ; I did not see them around the polls ; I voted late.

On such testimony as this, five votes are deducted from the vote returned the sitting member.

2.—PAUPER VOTE IN BUCKS COUNTY.

I think the majority of the committee erred in charging the votes, in appendix of report, Schedule A, from number 14 to number 16, inclusive, three (3) votes, as *illegally* cast for the sitting member, to wit: the votes of Christopher Ratican, Henry Alhouse and Frederick Frash. Although these votes were admitted as against the sitting member in his brief, yet, at the time of that admission, the conclusive opinion of the Hon. B. H. Brewster, late attorney general of Pennsylvania, in a contested election case in the senate of Pennsylvania, had not been promulgated. On the adjudication of said case, the opinion of Mr. Brewster was accepted as determining the legality of this class of voters, and the votes were retained as *legal*. I submit in this connection this luminous opinion:

EX ATTORNEY GENERAL BREWSTER ON THE FINDLAY-SCULL CASE.

Third. Is a poor man (pauper in a county poor-house) a qualified elector in the poor-house election district, although said poor man (pauper) had been sent there from another election district, provided he is a white freeman, a citizen of the United States, and has resided in this State at least one year, and in the election district where he offers to vote at least ten days immediately preceding such election, and within two years paid a State or county tax, which shall have been assessed at least ten days before the election, and has been registered?

Answer. Such a person is a qualified elector and can vote, and his vote cast is a lawful vote and as good as any man's vote, and it ought to be so. The Constitution establishes this, and it does not disqualify him because he is poor. That does not deprive him of his freedom or his citizenship.

They are amenable to the law, and being so, upon the very fundamental principles of our government have a right to be represented, and to say who shall make the laws. It is not property or poverty that rules here. It is the man, responsible to God, and responsible to the law. To say otherwise would make poverty worse than a crime. The pauper is bound by every law upon the statute book, and is protected by every provision of the Constitution, as much so as the wealthiest, wisest, or most successful man in the community. Sickness, the calamities and accidents of life, may reduce men to this sad condition. That is bad enough. The law never intended to add to his miseries by making him the only slave that remains in our republic. All the duties of life bind him: he can make a contract, he can be obliged to testify, he can marry, he can sue and be sued, he is only restrained and bound by rules as every one is who lives in any institution. Persons in hospitals, asylums, factories, homes for disabled soldiers, public works, government shops, and all kinds of public and eleemosynary institutions, as well as private establishments, are bound by fixed rules, that are enacted for the preservation of good order, to maintain discipline, and carry out the purposes of the establishments. This is all that he is subjected to, and these rules and the restraints of the house he can relieve himself from at any moment by asking for his discharge. The poor-house is his residence; it would be there that process of law, criminal or civil, would be served upon him; and it is from that residence he may vote, provided he has lived there ten days preceding the election and conformed to the requirements of the law. If to receive public support would be legal cause of disqualification, we must not forget that even now a large number of white and black citizens of the southern portion of this nation are still receiving and levying upon the supplied bounty of the government. What would be their condition? For some of those who have received and still receive that bounty were once the wealthiest and best bred, and the most accomplished, and sometimes reputed the wisest people in this region. By the calamities of war they are reduced to want; but God forbid that they or any one should by any calamity be stripped of their right of manhood and brutalized down to that slavery from which we have been, by God's providence, all emancipated.

I am, respectfully,

BENJAMIN HARRIS BREWSTER.

In this connection, I may add a portion of my report made in the Foster and Covode case, bearing on this question, and I reiterate, with the more force, since Attorney General Brewster's decision:

In the case of this class of voters the objection is not sustained, we find, by any law of Pennsylvania, nor is it sustained by the action of the House of Representatives in the contested election case of Koontz *vs.* Coffroth, thirty-ninth Congress, first session,

(report No. 92, vol. 1, of House Reports, 1865-'66.) In the majority report, which was adopted, and ousted the sitting member, it was held that this kind of vote could "not be deducted from the count of the sitting member. Each State frames its own laws for the maintenance and care of its poor. The laws provide protection for the poor, who, by reason of age, disease, infirmity or other disability," become unable to work. With regard to the elective franchise by such, the laws of Pennsylvania are silent. As they are not expressly deprived of the right, we cannot see why the unfortunate, provided for by the public, may not vote as if provided for by a parent or a son; certainly not, until the authorities of Pennsylvania shall have decided for themselves the law, for which they have had frequent opportunities. Therefore we *here* make no deduction from the count of the sitting member.

These three votes deducted from the sixty-seven remaining of the alleged majority of votes for contestant, after deducting the vote known as the colonizer vote, reduces that majority to sixty-four votes. The current of congressional and Pennsylvania State precedents, supported by the above concise and clear opinion of Mr. Brewster, warrants the reception of their votes.

3.—SOLDIER VOTE REJECTED IN THE EIGHTH DIVISION TWENTY-THIRD WARD.

Since the action of the Senate of the United States on the 1st day of April, 1870, on the admission to a seat in the Senate of General Ames, who at the time of *his* election (in the language of the majority of the committee in this case as touching this soldier vote) was not in Mississippi "by *his own volition, but by command of his military superiors,*" I am compelled, therefore, to say that I cannot coincide with the majority of the committee in their rejection of seven of the votes, known as the soldier vote, in the eighth division of the Twenty-third ward, wit: those of *Richard O'Leary, Owen Sheridan, Robert Armstrong, John Kennedy, John Laffey, Frederick Kopp, and Lewis Bingham.*

Of this number, *John Kennedy* is undoubtedly a good vote. He lived in the division when he enlisted, and had been living there two or three weeks, and was a single man. (Testimony, p. 96.)

Lewis Bingham is not shown as voting at all. No proof whatever that he did, and is not on the list of voters as filed of record by contestant; (p. 266 of testimony, Ex. No. 29, "H. H. H.")

Richard O'Leary was a single man, an enlisted soldier, assessed in that division, had paid taxes, and "resided at the arsenal during the period of his enlistment, and until his discharge." His enlistment did not disfranchise him. If he could not vote where he did, then the best legal minds in the Senate are in error in regard to the legality of the election of General Ames. (See Getty's testimony, p. 369.)

Owen Sheridan had been for six years continuously in the service of the United States, and was assessed and had paid taxes in the division in which he voted; was married, and wife lives in same division.

Robert Armstrong was assessed and paid taxes in the division in which he voted. The objection to this vote is because of his service as a soldier of the United States.

John Laffey is undoubtedly a good vote. John Laffey (page 97) voted for Reading; seven years in service continuously; enlisted originally in Boston for five years; *re-enlisted* from eighth division of Twenty-third ward; single man at time of enlistment; married for six months from October last; naturalized February 25, 1868—*soldier's papers.* (Samuel W. Getty, p. 369, swears that immediately after *Laffey* got his papers, he *re-enlisted.*)

Frederick Kopp was assessed and paid taxes in the division in which he voted; was a soldier in the service of the United States. This ser-

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vice, it is said, made him a non-resident for the purpose of voting. This is the only ground on which his vote is asked to be rejected.

I cannot agree that any of these votes should be rejected. In admitting any of the twenty votes thus attacked, you must admit all. You cannot admit a part and reject a part. The integrity of these voters is nowhere impeached. It is no reason for disfranchisement that these men were soldiers, and lived at a United States arsenal. They were what is known as the "permanent party" at a United States station; they had been there for years, enlisting and re-enlisting, marrying and raising families. Are such men to be disfranchised?

In *Bowen vs. Given*, Justice Cartter, of the District of Columbia, held "that an officer or enlisted man neither gained nor lost a residence; his residence was where he enlisted." In view of this decision, I insist that when the term of enlistment expired, these soldiers, having the *animus manendi*, gained a residence *eo instanti* in this division, and it was their residence at the time of their re-enlistment; and being so, they were not disqualified by reason of non-residence. This was likewise the decision in the case of General Ames, above referred to. I cannot reject the foregoing seven votes. I retain the whole twenty soldier votes in the return of votes for the sitting member.

Deducting, then, these seven votes from the sixty-four remaining of the contestant's alleged majority, reduces that majority to fifty-seven votes.

4.—THE UNASSESSED VOTE IN THE FOURTH DIVISION OF THE TWENTY-FIFTH WARD.

The majority of the committee err in stating in their report, (page 8,) that the incumbent "admits that sixty-one persons who were not assessed in this precinct voted at the October election in 1868." The incumbent does not admit that number, as he has clearly shown by the accompanying evidence; that at least ten (10) of the names alleged to be "unassessed voters" were, in point of fact, not only on the regular assessment, but on the registered list of taxables, but owing to the utter incompetency of David Dryburg, the names on the list were not found, as they should have been, and properly marked as voting. In fact, he seemed to content himself with a hasty glance, and if not able to find the names at once, he added them as "unassessed voters."

The contestant asked in this case that the *entire poll be thrown out*. But the committee concluded, unanimously, that the poll should be purged, and consequently proceeded to say which of the following sixty-one unassessed votes were legal votes and should be counted. Those marked with a star (*) the majority admitted should be counted as legal votes. Those marked with two stars (**) I submit that the evidence adduced by incumbent clearly proves to be legal votes, and should be allowed. Those marked with three stars (***) I do not think incumbent has proved, and therefore they must be charged against him. I annex the names of the "unassessed voters"—marked as admitted by the majority of the committee, marked as proved in my opinion, and marked as not proved in the opinion of the whole committee.

List of voters, fourth division Twenty-fifth ward, whose names do not appear on the list of taxables.

- | | |
|---------------------------------|----------------------------------|
| ** 13 Patrick Phillips. | *324 James Swan. |
| * 23 Dennis Harkins. | *333 Peter Phillips. |
| * 31 Thomas Madden. | **344 Patrick McGee. |
| ** 50 Edmond Parson. | **350 James McGlaughlin. |
| * 61 Joseph Hedding. | *353 James O'Donnell. |
| * 62 Michael Fleming. | **358 Patrick Gillroy. |
| * 66 John Robbins. | *360 Morrisey Heron. |
| ** 74 Barney McElorey. | ***362 Christopher Mulveil. |
| * 80 James Hilburn. | **374 Urias Pearson. |
| ** 94 Francis Mullochell. | *379 Dennis Duffy. |
| **105 John Quinn, voted No. 89. | **380 John Harison. |
| ***110 Daniel Mooney. | **393 John McNamee. |
| **128 John Caughey. | *413 P. Boyle, voted No. 329. |
| **134 Lewis Pryor. | *424 Thomas McSorley. |
| **140 Patrick Kathgan. | **445 John McDevitt. |
| **143 Thomas Lawler. | *446 Thomas Duffy. |
| **164 Philip Monaghan. | *457 Thomas McCusker. |
| *166 Daniel Hagerman. | *463 James McDonough. |
| **171 Edward McCafferty. | ***472 Anthony Tigh. |
| **176 Wilson Larue. | **475 James Conway. |
| **180 John McWilliams. | **481 James McAran. |
| **198 Patrick Slaven. | *490 George Snyder. |
| *216 Samuel Ross. | **498 Edward Porterfield. |
| *241 James Woonan. | *508 Mitchell Cornell. |
| *243 William Yanan. | *509 William McIntire. |
| **245 Felix O'Toole. | *511 Peter Steelman. |
| *272 Edward Hanzgty. | **533 John Carberry. |
| ***282 Michael McGrodey. | *538 Dolty Leonard. |
| **289 William Gallagher. | *548 Thomas Caughy. |
| ***307 Anthony McCally. | *551 Patrick Connelly.—61 names. |
| *310 Francis Harney. | |

We have here twenty-nine votes admitted to be legal by a majority of the committee, leaving thirty-two to be accounted for by the incumbent. (The majority of the committee say thirty-three, but this is an error, as they supposed they had counted Hillburn, No. 80, whom they allow as legal, and this makes twenty-nine allowed as legal, instead of twenty-eight, and the incumbent must account for the remaining thirty-two, or be charged with them.) Of this thirty-two I maintain he has clearly proven and accounted for twenty-seven, which bear the double asterisk as above; and these are to be allowed, as will be seen by the accompanying evidence touching each individual case. Those marked with three asterisks are admitted by me as not proven by the evidence of the incumbent, to the number of five, to wit: No. 110, Daniel Mooney; No. 282, Michael McGrodey; No. 307, Anthony McCally; No. 362, Christopher Mulveil; and No. 472, Anthony Tigh.

Thus, this poll purged, legally purged, makes a charge against the sitting member of five instead of thirty-three, as charged by a majority of the committee. The testimony bearing on these individual cases is as follows:

No. 13. *Patrick Phillips* is undoubtedly a good vote. (See his testimony, page 375:)

PATRICK PHILLIPS, a witness produced, sworn, and examined on the part of incumbent, deposes and says:

My name is Patrick Phillips. At the time of the last October election I lived at 1514 *Salmon street*, in the fourth division of the Twenty-fifth ward. I have lived in the same house going on twenty-six years. I own the house I live in. I voted in that division at the last October election. I am a citizen of the United States and of the State of Pennsylvania. I had paid a State or county tax within two years of that election. I have been a voter since 1841.

On the assessed list (see Ex. H. 4, page 439) as *James Phillips*, 1514 Salmon street. On the list of taxables (see Ex. 26-3, page 259) as *Joseph Phillips*, 1514 Salmon street, and marked as voting.

There is a *Patrick Phillips* on the list of taxables, at page 258, but he is not marked as voting.

Patrick Phillips, who testifies as above, is, by mistake, assessed as James and registered as Joseph, the residence opposite each name being the same—1514 Salmon street. He had been in the country thirty-five years.

No. 50. *Edmund* or *Edward Parson*. Undoubtedly a good vote. (See his testimony, page 374:)

EDMUND PARSONS, a witness produced, sworn, and examined on the part of incumbent, deposes and says:

My name is Edmund Parsons. At the last October election I resided at 1400 Salmon street. I had lived there a month and a half before the election; from about the 10th of August preceding. I voted in the fourth division of the Twenty-fifth ward. I am American born. I had paid a State or county tax within two years of that election. I am a native of Pennsylvania and have lived here all my life. I have been a voter about four years. My residence was vouched for by James Harkins.

Cross-examined:

I lived in Salmon above Maple, in the sixth division of the Twenty-fifth ward, before I moved to 1400 Salmon street. I was assessed there. At the time I offered my vote I was not sworn. My voucher was sworn. I did not produce my tax receipt. I was not asked for it, but I had one.

His name was added to the registered list of taxables.

No. 94. *Francis Mulvahill*. Undoubtedly a good vote. (See testimony, page 376:)

FRANCIS MULVAHILL, a witness produced, sworn, and examined on the part of incumbent, deposes and says:

My name is Francis Mulvahill. At the last October election I lived at 1508 Salmon street, in the fourth division of the Twenty-fifth ward. I have lived there since 1847, and voted there at that election. I am a citizen of the United States and of the State of Pennsylvania, and a property-holder. I had paid a State or county tax within two years previous to last October election. (Tax receipts produced.) I have been a voter in that division for twenty years.

This voter, the committee in their report (page 8, fourth line from the bottom) say voted on a fraudulent tax receipt. *He was a property-holder.*

No. 74. *Barney McElorey*. Undoubtedly an error. No such man voted at all. No such man is on the list of voters of this division as filed by contestant, on page 246; nor is the name anywhere on the registered list of taxables, page 249. This cannot in justice be charged to the incumbent. *It is clearly an error.*

No. 128. *John Caughey*. Undoubtedly a good vote. (See his testimony, page 386:)

JOHN CAUGHEY, a witness produced, sworn, and examined on the part of incumbent, deposes and says:

My name is John Caughey. At the last October election I resided in the fourth division of the Twenty-fifth ward. I have resided there eight months the 6th of this month. Previous to that I resided in Ann street, in the sixth division of the Twenty-fifth ward, for about three years. I voted in the fourth division of the Twenty-fifth ward at the last October election. I heard every one say I was on the assessed list. I cannot read. I am a naturalized citizen of the United States, and of the State of Pennsylvania. I have not my papers here with me. I have been naturalized about eleven years. I paid a State or county tax within ten or twelve days previous to the last October election.

Had been in the country eighteen years.

No. 184. *Lewis Pryor.* Undoubtedly a good vote. (See his testimony, page 381 :)

LEWIS PRYOR, a witness produced, sworn, and examined on the part of incumbent, deposes and says :

My name is Lewis Pryor. At the last October election I resided at 1519 Edgemont street, in the fourth division of the Twenty-fifth ward. I have lived there going on four years. I voted in that division at the last October election. That was my first vote. I voted on age; I was twenty-two years old on the 19th day of January, 1869. I am native-born. My vote was not challenged. My father was at the polls to vouch for my age. My father was not questioned as to my age. The officers inside knew my age. I had a brother who voted. He was two years older than me. I was born in 1846; I mean to say in 1847; it was near 1846. My mother told me when I was born.

Added to the registered list of taxables, and marked as voting *on age*. (Page 358.) Also, see Fitzpatrick's testimony on this page, 385.

No. 140. *Patrick Kathgan.* Undoubtedly a good vote. (See his testimony, page 373 :)

PATRICK KATHGAN, a witness produced, sworn and examined on the part of the incumbent, deposes and says :

My name is Patrick Kathgan. At the last October election I lived at 1422 Edgemont street. I voted in the fourth division of the Twenty-fifth ward. I am a citizen of the United States and of the State of Pennsylvania. I have paid a State or county tax within the last two years. I have been living in that division about five years.

This is a voter whom the committee (on page 8 of their report, seventh line from the bottom) say voted on a fraudulent tax receipt. He swears as to having paid tax in 1867 as well as 1868.

No. 143. *Thomas Lawler.* Undoubtedly a good vote. (See his testimony, page 373 :)

THOMAS LAWLER, a witness produced, sworn, and examined on the part of the incumbent, deposes and says :

My name, Thomas Lawler. I live at No. 1421 Almond street, and I lived there at the last October election. I voted in the fourth division of the Twenty-fifth ward. I have lived in that division over three years. I am a citizen of the United States and of the State of Pennsylvania. I have paid a State or county tax within two years. I have been a voter about eleven years.

Cross-examined :

I paid my tax on the 29th April, 1868. (Tax receipt produced, dated April 29, 1868, for property 1421 Almond street, and for personal tax.) There was a man sworn for me when I voted; I was not sworn. I was challenged on my residence; I produced my tax receipt, but it was not taken. I also produced my naturalization papers, but the election officers said they were not necessary, as I was challenged on residence. I was naturalized about eleven years ago, in Philadelphia. I have lived in Philadelphia ever since I was naturalized. I landed there on my arrival in this country, and have never lived anywhere else.

No. 164. *Philip Monaghan.* Undoubtedly a good vote. (See his testimony, page 375 :)

PHILIP MONAGHAN, a witness produced, sworn, and examined on the part of incumbent, deposes and says :

My name is Philip Monaghan. I resided at the corner of William and Salmon streets, at No. 1552 Salmon street, at the last October election. I was born there. I voted in the fourth division of the Twenty-fifth ward at the last October election. I am a citizen of the United States and of the State of Pennsylvania. I voted on age last October. I was twenty-one years of age on the 28th day of September, 1868. I was sworn as to my age.

No. 171. *Edward McCafferty.* Undoubtedly a good vote. (See his testimony, page 377 :)

EDWARD MCCAFFERTY, a witness produced, sworn, and examined on the part of incumbent, deposes and says :

My name is Edward McCafferty. At the last October election I lived at No. 1404

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Salmon street, in the fourth division of the Twenty-fifth ward, and had lived there nearly a year previous to that election. I voted in that division last October. I am a citizen of the United States and of the State of Pennsylvania. I had paid a State or county tax within two years previous to said election. I have been a naturalized citizen since 1860. My vote last October was my first in that division and ward. I have lived in Pennsylvania; it is my home and has been. I had lived in Clearfield street, in the sixth division of the Twenty-fifth ward, previous to removing to Salmon street.

Regularly assessed in the sixth division of the Twenty-fifth ward, (see record, page 434,) "Clearfield street, north side, Edward McCafferty, laborer."

No. 176. *Wilson Larue*. Undoubtedly a good vote. (See his testimony, page 379:)

WILSON LARUE, a witness produced, affirmed, and examined on the part of incumbent, deposes and says:

My name is Wilson Larue. At the last October election I lived at 1040 Somerset street, in the fourth division of the Twenty-fifth ward. My family had lived in Somerset street for about two weeks before the last October election. When I came to run on the railroad, I boarded with Mrs. Brown, in the same division of that ward. I voted in that division at the last October election. I was assessed in that division. I had paid a State or county tax within two years preceding the last October election. Before moving into this ward, I had lived in Montgomery County, Pennsylvania, for four and a half years.

Was assessed and vouched for by Charles Olden.

No. 180. *John McWilliams*. Undoubtedly a good vote. Was on the regular assessment, and on the list of taxables. Voted and resided in the division *twenty* years. Naturalized *sixteen* years; property-holder, and paid taxes. (See his testimony, page 379:)

JOHN MCWILLIAMS, a witness produced, sworn and examined on the part of incumbent, deposes and says:

My name is John McWilliams. At the last October election I lived at 1420 Edgemont street, in the fourth division of the Twenty-fifth ward, and had lived there for twenty years previous to that election. I was a property-holder, and was assessed in that division. I voted in that division at the last October election. I am a citizen of the United States and of the State of Pennsylvania. I had paid a tax within two years previous to the last October election. I was naturalized in 1852. (Naturalization papers produced.) I have been a voter in the fourth precinct of the Twenty-fifth ward since I was naturalized, viz: for sixteen years.

No. 198. *Patrick Slaven*. Undoubtedly a good vote. (See his testimony, page 378:)

PATRICK SLAVEN, a witness produced, sworn and examined on the part of incumbent, deposes and says:

My name is Patrick Slaven. I resided at 1411 Almond street at the last October election, in the fourth division of the Twenty-fifth ward. I moved there last June. I had lived in Edgemont street, in the same ward, before I moved there. I voted in that division and ward at the last October election. I am a citizen of the United States and of the State of Pennsylvania. I had paid a State or county tax within two years previous to the last October election. I am a naturalized citizen. I was naturalized on the 26th day of September, 1868.

I lived on Edgemont street about three months; before that, I lived on Somerset street. To the best of my opinion, I lived six or seven months on Somerset street. I believe Edgemont and Somerset streets are both in this ward. It will be nine years some time this month since I have been in this country. I cannot exactly say how old I am, but to the best of my opinion I am between twenty-seven and twenty-eight years old now. Peter Matthews was my voucher when I was naturalized. I had known him for seven or eight years—nearly ever since I had been in the country. I paid my tax the day before the election. I could not say the name of the man to whom I paid my tax. It was to a man on Frankford road, near Ann street. There were a number of persons there paying their taxes at the same time.

He was vouched for by *Charles Fay*.

No. 334. *Patrick McGee*. Was on the regular assessment list and list of taxables, as Patrick McGeehan, his correct name. Marked as voting. (Counsel for contestant admitted that both names were intended for the same man.) Undoubtedly a good vote. (See his testimony, page 386:)

PATRICK MCGEEHAN, a witness produced, sworn, and examined on the part of incumbent, deposes and says:

My name is Patrick McGeehan. At the last October election I resided at 1117 Somerset street, in the fourth division of the Twenty-fifth ward. I am on the regular assessment list. I voted in that division at the last October election. (On the list of voters of the fourth division of the Twenty-fifth ward the witness is written down as Patrick McGee, at No. 344, when it should have been his right name of Patrick McGeehan.)

No. 350. *James McGlaughlin*. Undoubtedly a good vote. He was on the list of taxables as *William McGlaughlin*, and marked as voting. Lived in division eighteen years; voted there. Is a property-holder, and paid taxes. (See his testimony, page 374:)

JAMES MCGLAUGHLIN, a witness produced, sworn and examined on the part of incumbent, deposes and says:

My name is James McGlaughlin. I resided at 1411 Almond street at the last October election. I have been living in this division eighteen or twenty years. I voted in the fourth division of the Twenty-fifth ward at the last October election. I am a citizen of the United States and of the State of Pennsylvania. I am a property-holder, and have paid a tax within two years previous to the last October election. I have been a voter since 1852.

On the regular assessment list, (See Ex. H. 4, page 430,) at No. 1411 Almond street, is the name of *William McLaughlin*. On the registered list of taxables (See Ex. 26-3, page 256) is the name of *William McLaughlin*, 1411 Almond street, marked as voting. They are one and the same person.

No. 358. *Patrick Gillroy*. An error in the clerk in transcribing name. Should have been *Kilroy*. There is no such name as *Patrick Gillroy*, either on the regular assessment list, or on the list of taxables of this division, nor is there *any such name* added to the list as having voted. But there are *two* Patrick Kilroys on the regular assessment list; one at 1139 Henson street, (page 428,) and one on Somerset street, (page 429;) and on the registered list of taxables (page 254) is Patrick Kilroy, No. 1139 Henson street, and Patrick Kilroy, 1128 Somerset street, both marked as voting. This is undoubtedly a good vote, the error being in transcribing the name to the list of voters. (See his testimony, page 379:)

PATRICK KILROY, a witness produced, sworn, and examined on the part of incumbent, deposes and says:

My name is Patrick Kilroy. At the last October election I resided at No. 1128 Somerset street, in the fourth division of the Twenty-fifth ward, and had lived there ten years. I voted in that division at that election. I am a citizen of the United States and of the State of Pennsylvania. I was naturalized in 1859. (Papers produced.) I had paid a State or county tax within two years previous to the last October election. I have paid a tax every year since I have been a voter. I have been voting in this division nine years.

No. 374. *Urias Pearson*. Undoubtedly a good vote. (See testimony, page 375:)

URIAS PEARSON, a witness produced, sworn and examined on the part of incumbent, deposes and says:

My name is Urias Pearson. I resided at 1453 Salmon street at the last October election, and had resided there for eighteen months previous to that election. I voted in the fourth division of the Twenty-fifth ward. I am a native-born citizen. I had paid a State or county tax within two years previous to the last October election; (tax re-

ceipt produced, dated October 10, 1868, and signed by John C. Sees.) My vote was not challenged, but my residence was vouched for. Mr. Thomas Fay vouched for me.

I was not sworn. I produced my tax receipt and a discharge from the United States Army. I was assessed on the extra assessment list previous to the last October election. I lived in the same division of the same street at the time of the assessment and of the election. I believe Mr. Fay was sworn for me at the time I voted.

No. 445. *John McDevitt*. Undoubtedly a good vote. (See his testimony, page 375 :)

JOHN McDEVITT, a witness produced, sworn, and examined on the part of incumbent, deposes and says :

My name is John McDevitt. I resided at No. 1540 Richmond street, in the fourth division of the Twenty-fifth ward, at the last October election. I had resided there about ten years and voted there at that election. I am a citizen of the United States and of the State of Pennsylvania, and a property-holder. I had paid a State or county tax within two years of that election. I have been a voter about ten years. My vote was not challenged. I know Thomas Barrett.

The committee in their report, page 91, say: "John McDevitt, called by incumbent, did not prove the unassessed vote in that name, for there are three of that name, including the witness, and four voted." This is an unintentional error, as by reference to the list of taxables, pages 256-'57, it will be seen there are *four* John McDevitts, and four registered as voting.

No. 475. *James Conroy*. (Error of the printer. Should have been *Conroy*.) Contestant's counsel admits that these persons are one and the same; that the Conroy on the list of unassessed voters is the same Conroy who appears on the regular assessment, *not marked as voting*. This is undoubtedly a good vote. (See testimony, page 391 :)

JAMES CONROY, a witness produced, sworn, and examined on the part of incumbent, deposes and says :

My name is James Conroy. At the last October election I resided at No. 1523 Belgrade street, in the fourth division of the Twenty-fifth ward. I had lived there for a year previous to that election. I voted in that division at last October election. I have been voting in that ward about eleven years. I paid taxes last year before the October election. I was on the regular assessment, and read my name on the list outside the polling place. There is no other voter of the name of Conroy living at 1523 Belgrade street, except Martin Conroy, my father. (The list of voters at No. 334 shows the name of James Conroy as voting; by the book marked "C C C," James Conroy, 1523 Belgrade street, appears on the regular assessment and not marked as voting, and on the list of the added unassessed voters appears the name of James Conroy, 1523 Belgrade street, as having voted.)

No. 481. *James McAran*. Undoubtedly a good vote. (See his testimony, page 379 :)

JAMES D. MCARAN, a witness produced, sworn, and examined on the part of incumbent, deposes and says :

My name is James D. McAran. At the last October election I resided at No. 1415 Salmon street, in the fourth division of the Twenty-fifth ward. I had lived there about three months previous to that election. I voted in that division at that election. I had paid a State or county tax within two years previous to that election. I am a native-born citizen. I was living in that division in pursuance of my lawful calling, and am living there yet. I am conductor on the railroad. I was not assessed in that division. I was challenged on residence at the last October election. Francis McDonough vouched for me.

Cross-examined :

I was not sworn when I voted, but my voucher was. I did not produce a tax receipt. I had paid a tax two weeks preceding the October election of 1867. I paid that tax in the Fifth ward of the city of Philadelphia. I came home from West Virginia, where I had been working, about two or three months before the election of 1867, and had boarded at Sixth and Powel streets. I was on the extra assessment in the Fifth ward at the October election in 1867.

No. 498. *Edward Porterfield*. Undoubtedly a good vote, although the committee charge him, on page 8 of report, as having a fraudulent tax receipt. How they can establish such a charge from his evidence which follows, (see pages 376-'77,) is passing strange.

EDWARD PORTERFIELD, a witness produced, sworn, and examined on the part of incumbent, deposes and says:

My name is Edward Porterfield. I resided at No. 1116 Frémont street at the last October election, and had lived there for nine years and a half previously. I voted in the fourth division of the Twenty-fifth ward at that election. I am a citizen of the United States, and of the State of Pennsylvania. I had paid a State or county tax within two years previous to the last October election. I have been a voter since 1854, and in that division about nine years. My vote was challenged last October. They would not take my papers, and I got a voucher. Daniel Harkins vouched for me. I was challenged on residence.

Cross-examined:

I was not sworn when I offered to vote. Mr. Harkins, my voucher, was sworn. I produced my tax receipt. I had my naturalization papers and that, both. I offered my naturalization papers to the officers of election, but they didn't look at them. I paid a poll tax some time last fall, a little before the election. I do not remember who I paid it to; it was to the man who received the taxes. I have been living in the same place somewhere about nine years and a half. I could not say when I paid a tax before the last one. I paid taxes several times in the course of the time I have lived there.

No. 380. *John Harison*. Should be *John Hampson*; on list of voters (Ex. 26-2) page 246 at No. 380, is the name of John Harison, (a clerical error;) on regular printed assessed list "H. 4," page 429, is the name of John Hampson, 1416 Salmon street; and on list of taxables (Ex. 26-3, page 249) is the name John Hampson, marked as voting, residing at No. 1417 Salmon street. *There is no John Harison on either the regular or extra assessed lists, nor among the added names.* Hampson was vouched for by John Fitzpatrick; (see test., page 385.)

No. 533. *John Carberry*. Error; on list of voters filed by contestant, Ex. 26-2, page 246, *there is no such name.*

No. 289. *William Gallagher*. Added to the list of taxables, and vouched for by Thomas Fay, an officer of the election. (See Ex. 26-3, page 253.)

No. 393. *John McNamee*. Added to the list of taxables, and vouched for by Charles Fay, an officer of the election. (See Ex. 26-3, page 257.)

No. 245. *Felix O'Toole*. Added to the list of taxables, and voted on "age." (See Ex. 26-3, page 257.)

No. 105. *John Quinn*. A good vote, but David Dryburg, the republican window inspector, who kept the list of taxables, forgot to mark him when he voted. There are *two* John Quinns, and both are on the extra assessment list.

Thus, twenty-seven of the thirty-two rejected votes in this division are accounted for, and proved to have been perfectly legal votes. Instead of a reduction of thirty-three in favor of the contestant, there should be only five deducted from these sixty-one unassessed voters. This would make an additional allowance of twenty-eight voters to the sitting member, which would still further reduce the alleged majority of contestant (as per report of committee) from fifty-seven to nineteen majority.

In order that it may be seen how just is this allowance, I may state that of the twenty-nine votes of the sixty-one unassessed voters the majority have rejected, and which I desire to have allowed, twenty-three of these names voted at both elections in October and November, as will be seen by reference to list of voters filed by contestant on pages

243 and 246. For reference, I have tabulated them with their numbers on the respective list of voters in October and November, 1868:

	No. of voter in October.	No. of voter in November.
Patrick Phillips.....	13	7
Edmon Parson.....	50	107
Barny McElory.....	74	25
Francis Mulrahill.....	94	310
Jno. Quinn.....	89	333
Jno. Caughey.....	128	192
Lewis Pryor.....	134	156
Patrick Kathgan.....	140	90
Thomas Laulor.....	143	120
Philip Monahan.....	164	287
Ed. McCafferty.....	171	148
Wilson Larne.....	176	455
Jno. McWilliams.....	180	495
Patrick Slaven.....	198	246
Wm. Gallagher.....	289	305
Patrick McGeehan.....	344	322
Jas. McGlaughlin.....	350	325
Patrick Gillroy, or Kilroy.....	358	425
Urias Pearson.....	374	489
Jno. McNamee.....	393	104
Jas. McAran.....	481	447
Edward Porterfield.....	498	119
John Carberry.....	533	221

One more word as to the integrity of this poll. In the October election, as per the tally-list adopted by the majority of the committee, the democratic vote was 496, in November following it was 497; (See Ex. M. M. M., page 260;) and the republican vote in October was 53, while in November following it was 52. (See Ex. M. M. M., page 260.) The aggregate vote in this division in October was 549 votes, and in November following, 549—precisely the same number. Can more clear proof be needed of the integrity of this poll?

We now have but 20 of the alleged majority of 72 left to the contestant. I now proceed to consider—

5.—BENSALEM TOWNSHIP.

I cannot agree with the committee in their conclusion in regard to Bensalem Township. In this township the return for contestant is 173; for the sitting member, 319. The contestant produced 190 persons who on their oaths declared they voted at said election for the contestant; but as six of these witnesses testify that they voted for contestant without all the constitutional qualifications of an elector, these must be deducted from the 190, which leaves contestant a proved vote of 184. The names of the six persons of the 193 who voted for contestant, with their disqualifications, are as follows, to wit:

Michael Weaver (test., p. 137) voted for contestant on minor's naturalization papers to which he is not entitled, being over 18 years of age when he came to this country.

Geo. Lynn (p. 143) voted for contestant, and had not paid a State or county tax within two years.

Watson Praul (p. 149) voted for contestant, and had not paid a State or county tax within two years of the election, as required by the constitution. *His father paid his tax.* In explanation of the constitutional provision, which requires "the payment of a State or county tax within two years," in order that a person may vote, it was held in *Catlin vs.*

Smith, 2 S. and R. p. 267, that "to enable a citizen, otherwise qualified, to enjoy the rights of an elector, it is necessary that *he* should, within two years next before the election, have paid a State or county tax." *Praul's father paid it.*

William E. Watson (p. 151) voted for contestant; had not paid a State or county tax within two years of the election. *His father paid his tax.*

John H. Harrison (p. 152) same as above.

Wm. Vanzant (p. 155) same as above.

In addition to these disqualified voters, the testimony of Joshua H. Minster (p. 146) and Charles Deal, (pp. 145 and 146,) as to whether Charles Deal or his father, Samuel Deal, voted for contestant, is so contradictory as to be unworthy of belief. These 2 votes, deducted from the 184, leave 182 as the proved vote of the contestant at this poll.

Allowing the contestant the full credit of his vote proved, the returns in this township, as corrected, would stand thus: Caleb N. Taylor 182, John R. Reading 302.

Further, I cannot agree with the majority of the committee in allowing, on the following testimony, an additional difference in favor of the contestant of twenty votes. (See testimony, page 171:)

SAMUEL H. HARRISON, being duly affirmed, deposes and says: There were ten democratic tickets containing the name of Caleb N. Taylor pasted over the name of John R. Reading for Congress.

The contestant has proved but three of these ten votes claimed, viz: *Barnard Maguire*, (p. 129,) *Reuben P. Douglas*, (p. 137,) and *George Lynn*, (p. 143,) all of whom swore they voted a democratic ticket with the name of Caleb N. Taylor on it for Congress. This would gain to the contestant three votes, and lose to the sitting member three votes, thus making the poll in this division, as further corrected, Taylor 185, and Reading 299 votes, thus making a clear gain to contestant (in both corrections) of thirty-two votes instead of the fifty-four allowed contestant in the report of the majority. This makes twenty-two votes *overcharged* against the sitting member in this division, reducing contestant's majority to seven.

Having shown that sixty-five votes were wrongly charged against the sitting member, I now proceed to show what credits were wrongfully withheld from the sitting member in the examination of this case.

1.—THE TALLY-LISTS AS THE HIGHEST PROOF OF THE RETURN IN EACH DIVISION.

As a general principle primary evidence is preferable to secondary evidence. The ballots are the primary or highest evidence of an election, and a Pennsylvania statute requires these ballots to be preserved for the purposes of contested elections.

The next best evidence are the *tally-lists*. These are contemporaneous records made at the very time of voting. The hourly report of the vote and the returns in the prothonotary's office are *made up* from the tally-lists; are *mere copies* of those lists, and *original documents* are always better evidence than copies. The *tally-lists* are preferable evidence to *reports* made from them. The majority of the committee evidently thought so, or they would not have allowed the tally-list of the third division of the Twenty-third ward to have over-ridden the hourly return and general return of the same division, whereby the contestant suffered a loss of sixty votes from his general return of votes.

If this reasoning is correct (and the precedents in all contested election

cases in Pennsylvania sustain it) what do the tally-lists as filed of record in this case show? Clearly this—

	Votes.
a. In the fourth division of the Twenty-second ward, (an error in the addition,) in favor of the sitting member of.....	13
(See tally-list, Ex. B 1, page 429. Hourly return and general return, Ex. A 6, page 417.)	
b. In the eighth division of Twenty-second ward, (an error in the addition,) in favor of the sitting member of.....	1
(See tally-list, Ex. A 6, page 417, and general return, Ex. A 6, page 417.)	
c. In the sixth division of the Twenty-third ward, (an error in the addition,) in favor of the sitting member.....	8
(See tally-list, Ex. B 5, page 424, and general return, A 5, page 416.)	
d. In the third division of the Twenty-fifth ward, an error in addition in favor of the sitting member.....	6
(See tally-list, Ex. D 2, page 426, and general return, A 5, page 416.)	

Making an aggregate gain for the sitting member, on this proof, of. 27

From this gain, however, is to be deducted the votes the contestant gains by like errors in the addition of the tally-lists, to wit:

	Votes.
a. An error in the second division of the Twenty-second ward.....	1
b. An error in the seventh division of the Twenty-third ward.....	6

Making an aggregate gain for contestant, on this proof, of..... 7

Deducting these seven votes which the contestant gains from the twenty-seven votes which the sitting member gains makes a clear gain for the sitting member of twenty votes. These, I hold, must be allowed in the absence of the ballot-boxes, the production of which was urgently demanded by me for a recount of the ballots, in order that the tally-lists might be verified. To this end the counsel for the sitting member had notified the custodians of the same of his intention to ask their production, as will be seen by the following record from pages 404, 405:

TAYLOR
vs.
READING. } *Contested election fifth congressional district, Pennsylvania, for a seat in the forty-first Congress.*

PHILADELPHIA, March 8, 1869.

DEAR SIR: I respectfully notify you that I shall apply to the Committee of Elections of the forty-first Congress for a recount of the congressional vote in the following divisions, to wit: The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and tenth, of the Twenty-second ward; the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and tenth, of the Twenty-third ward; and the first, second, and third, of the Twenty-fifth ward. As joint custodian with the recorder of said division ballot-boxes of October election, 1868, I respectfully ask their retention by your honor, subject to congressional demand for the same.

Very truly yours,

CHAS. W. CARRIGAN,
Attorney for Incumbent.

Hon. DANIEL M. FOX.

TAYLOR
vs.
READING. } *Contested election, fifth congressional district Pennsylvania, for a seat in the
forty-first Congress.*

PHILADELPHIA, March 8, 1869.

DEAR SIR: I respectfully notify you that I shall apply to the Committee of Elections of the forty-first Congress for a recount of the congressional vote in the following divisions, to wit: The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, of the Twenty-second ward; the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, of the Twenty-third ward; and the first, second, third, of the Twenty-fifth ward. As joint custodian with the mayor of said division ballot-boxes of October election, in 1868, I respectfully ask their retention by your honor, subject to congressional demand for the same.

Very truly yours,

CHAS. W. CARRIGAN,
Attorney for Incumbent.

Hon. JAMES GIVEN.

It was to meet just such a contingency as this that the above notices were given, and yet the majority of the committee reject the allowance of these errors in the tally-list, on the ground that the ballot-boxes were not examined or asked to be examined. They were not examined in the district where the testimony was taken, because the courts have decided that the committee of elections of Congress were the only competent authority to send for them and examine them, and *that they were asked to be examined* one of the committee making the majority report will cheerfully admit. The sitting member rested his case, so far as the tally-lists were concerned, on the examination of the ballot-boxes and a recount of the ballots, but the majority of the committee saw fit to reject these gains without an examination, and the only one that could test their truth or falsity. In the absence of the ballot-boxes, or a refusal to recount the ballots, the committee must take the highest order of proof presented to them, which are the tally-lists certified to them by the seal of the court having charge of them. They are conclusive, and especially so when the committee refuse to avail themselves of the primary evidence, the ballots, which, by request of the counsel of the sitting member, have been kept in safe custody from the day of the election up to the present time.

These tally-lists, therefore, correcting the general return, entitle the sitting member to a clear gain of twenty votes. These overturn the seven majority left to contestant by the report of a majority of the committee, and give the sitting member a legal majority of thirteen.

NOTE.—The discrepancy of six votes between the tally-list and general return of the fourth division of the Twenty-fifth ward has already been allowed by the majority of the committee in their report of an alleged legal majority of seventy-two for contestant. I concur in such allowance.

2.—INDIVIDUAL ILLEGAL VOTES CLAIMED BY INCUMBENT.

to be deducted from the contestant's return, but not allowed by the majority of the committee.

I think the committee erred in not deducting the following illegal votes from the contestant.

a. Samuel Ely, a resident of Kansas, voted in this township. He was a republican, (see Knight's testimony, p. 296:)

EDWIN KNIGHT, affirmed for incumbent.

Examined under the thirty-third specification, and amended answer.

(Objected to by Mr. Yardly on the same grounds as those offered against the evidence of George Lear.)

WITNESS. I live in Upper Makefield Township, Bucks County. I know Samuel Ely.

I have known him fifteen or sixteen years. He is about thirty years of age. I knew him before he was twenty-one years of age. I cannot tell how long he has lived there. I learned to know him in Upper Makefield Township. He had been out of the State about a year and a half. He came back some two or three weeks before the October election. He voted at the October election. He was challenged on the grounds of non-residence. He was not qualified. The board asked him questions, and agreed to let him vote. The politics of the board is republican. There is no democrat in the board.

b. George S. Repplier voted for contestant, in the second division of the Twenty-second ward. This was not his residence in point of law; he lived in the Eighth ward. (See his testimony, p. 307:)

GEORGE S. REPPLIER, affirmed for incumbent, deposes and says:

I reside at No. 1922 West Rittenhouse square, Eighth ward, Philadelphia. In November I resided at the same place. In October last I resided at Oak lane, second division of the Twenty-second ward, from some time in June previous to the October election. I voted in that division at the October election. About four or five days after the October election I removed to 1922 West Rittenhouse square. I voted at the November election in the Eighth ward of the city of Philadelphia, where my residence is located. I have been in the habit of residing in Oak lane, in the second division of the Twenty-second ward, during what I call the summer months, for the last four years. I have voted in the second division of the Twenty-second ward before that. I do not remember whether it was once or twice I voted there. I lived at 1922 West Rittenhouse square seven or eight months during the year. I consider both places my domicile. I voted for member of Congress at the October election. I voted for Caleb N. Taylor.

This was a "social status" colonizer. He was but a temporary sojourner in the division. His domicile was in the Eighth ward in the city, where he spent nine months of the year and carried on his business. He had none of the *animus manendi* to constitute him a resident for the exercise of the franchise. *Clearly illegal.*

c. Samuel S. White voted for contestant in same division. He was a non-resident; his domicile was in the Ninth ward.

SAMUEL S. WHITE, a witness for incumbent, being affirmed, says:

I reside in Ninth ward, Philadelphia, at 1622 Arch street. In November last I resided at 1622 Arch street. In October last I resided at Green lane and Second street, second division of the Twenty-second ward. I resided there, in the second division of the Twenty-second ward, from about the 1st June prior and up to the October election. I voted at the second division of the Twenty-second ward at the October election. In the November election I voted in the Ninth ward in the city of Philadelphia. I voted for member of Congress at the October election. I voted for Caleb N. Taylor for Congress, the republican candidate.

I moved into the city four or five days after the October election. I never voted in the second division of the Twenty-second ward previous to the last October election, during the three years I resided there.

Another "social status" colonizer. Clearly illegal as Repplier.

d. George Reilly, fourth division of the Twenty-second ward, *voted for contestant*; no residence there; was challenged; no respect paid to the challenge, &c. (See testimony of Stadleman and Jones, pp. 320-321.)

AUGUSTUS R. STADLEMAN, a witness for incumbent, sworn and examined under the first specification:

Question. Did a man named Reilly vote at that division at that election?—Answer. He did.

Q. Do you know his first name?—A. I cannot swear to his first name, but I think it was George. Mr. Edwin T. Jones challenged his vote on the grounds that he was a resident of Bucks County.

Q. Was he asked to produce a voucher for his residence?—A. He was not. He was not sworn himself as to his residence.

Q. Then no notice was taken of the challenge of the right of George Reilly to vote?—A. There was not. The vote of George Reilly was taken and put in the box. I could not swear to it, but I am most certain he voted the republican ticket.

Q. Why do you suppose he voted the republican ticket?—A. Because he and I had

many good sneets together, and I knew him to be a republican, and he voted the ticket with a republican heading.

Q. Do you know of your own knowledge how George Reilly voted at the October election?—A. I do not know any further than the heading of his ticket, and further, that he thinks a democrat is not an honest man, and so forth.

EDWARD T. JONES, recalled by counsel for the incumbent:

Question. Did you challenge the right of George Reilly to vote in the fourth division of the Twenty-second ward at the last October election?—Answer. I did.

This vote is clearly illegal.

e. Joseph Applin *voted for contestant* in the fifth division of the Twenty-second ward; voted on age; was over twenty-two years old; had paid no taxes. (Pages 322–323.)

JOSEPH APPLIN, a witness for incumbent, sworn and examined.

Cross-examined by contestant's counsel:

Question. When you say that you believe you were between the ages of twenty-one and twenty-two at the last October election, did you so answer honestly, to the best of your knowledge and belief?—Answer. I believe I said I was over twenty-one years of age, and perhaps twenty-two.

Q. When you say that you are now twenty-two years of age, to the best of your knowledge, you mean that you were twenty-two at your last birthday, in January?—A. I mean that I was twenty-two years old in January, 1868.

J. APPLIN.

Clearly illegal.

f. John H. Budd, second division of the Twenty-third ward, (p. 326,) *voted for contestant*; had not been assessed anywhere for three years; no tax being assessed against him in this division, the receipt he voted on was a fraudulent tax receipt.

“It shall not be lawful for any collector of taxes in any township, ward, or district, nor for any other person on his or their behalf, to receive payment or give any receipt for the payment of taxes that have not been duly assessed.” (Act 27th May, 1861, 8th section, Pamphlet Laws, 402.) Then follows the penalty for so doing, &c.

The majority of the committee reject four votes given to incumbent on precisely the same ground. (See their report, bottom of page 8.)

g. Robert Henry, same division, same ward, (page 328,) *voted for contestant*; voted on a tax receipt obtained in a division and ward where he was not assessed; if not assessed there he could not pay tax there. (See John H. Budd, similar case.)

h. John Gardner, second division Twenty-third ward, (page 327,) voted on *minor's* naturalization papers and *for contestant*, and was over eighteen years of age when he came to this country. Was not entitled to his papers.

JOHN GARDNER, a witness for incumbent, examined under the seventeenth specification of incumbent, sworn, deposes and says:

I reside in second division, Twenty-third ward, near Bustleton; I resided there at the last October election; I voted at the last October election at that poll; I am not a native of this country; I was born at Lancashire, England; I came to this country August, 1850; I am thirty-five years of age; I was born in 1837; I was under twenty years old when I came to this country, to the best of my recollection; I was a little over eighteen years old when I came to this country; I am a naturalized citizen of this country; I was naturalized in 1860.

Mr. Carrigan states that witness produces naturalization paper issued from the court of quarter sessions, county of Philadelphia, bearing date October 20, A. D. 1860, which paper is a duplicate of naturalization paper of the above date, said duplicate bearing date September 28, 1868, which paper states, “that including the three years of his minority he had resided within the limits and under the jurisdiction of the United States.”

i. William Cook, same division, same ward, *voted for contestant*; was a minor, (page 330.)

WILLIAM COOK, a witness for incumbent, (examined under sixteenth specification,) sworn, deposes, and says:

I reside in Bell's Corner, on the Bustleton pike, Twenty-third ward. I lived at same place at last October election. I voted at said election. I voted at Bustleton. I was not assessed. I did not pay any tax previous to that election. I lived there three years previous to the October election. I was twenty-one years old last May. I was born May 28, 1848. I voted for Caleb N. Taylor for Congress at that election.

Cross-examined:

I voted on age. I was twenty-one when I voted. I am sure of that.

Question. You said on your examination-in-chief that you was born May 28, 1848; you now say that you are positive that you were twenty-one the time you voted; did you or did you not, therefore, make a mistake in saying you were born in 1848?

(Objected to by Mr. Carrigan, because when the counsel for incumbent was asked to reduce the question to writing it was put in the language first asked, leaving out the following words, to wit: "You will perceive that this makes you but twenty years old.")

Answer. Yes, sir; I was born in 1847. I have no doubt whatever of that.

Re-examined:

Q. What made you say you were born May 28, 1848?—A. So my father says. I know nothing about my age except what my father says.

Clearly illegal. Was but *twenty* years old when he voted.

j. Thomas Clayton, same township, *voted for contestant*. Had not been in the State a year after he became a citizen; lived in New Jersey during his alienage.

THOMAS CLAYTON, a witness produced, sworn and examined on the part of incumbent, deposes and says as follows:

Question. Where did you reside and vote at the last October election?—Answer. In Lower Makefield Township, Bucks County.

Q. When did you last move into this State, and where from?—A. I moved into Pennsylvania this last April a year, in the year 1868; I moved from Greensburg, New Jersey; I had lived there about four years; I lived in this State since April 1, 1868. I am a foreign-born citizen; I was born in Ireland; I was naturalized since last year, since I lived in Pennsylvania. (Paper produced issued from the court of common pleas of Bucks County, dated the 21st day of September, A. D. 1868, with the signature of R. F. Scheetz, prothonotary, and the seal of said court affixed.) I was not told before I voted that my paper was not right. I voted in that township, Lower Makefield, at the last October election.

Q. What ticket did you vote?—A. I cannot read; do not know what ticket it was; I thought it was the republican ticket; William Kirkman gave me the ticket I voted; Kirkman was my employer; he took me to the election; I did not want to go; I did not go because I did not want to vote, and I was told not to vote.

Q. What are the politics of William Kirkman?

(Objected to by counsel for the contestant upon the ground that it is competent for the incumbent to produce said Kirkman and find out from him what his politics are, he being within the jurisdiction of this court.)

A. He is a republican, I think; he loaned me thirty dollars upon the condition I would vote, and then discharged me because I would not vote the republican ticket at the presidential election, in November; I voted the democratic ticket in November; that is the reason he discharged me; I had a family, and we almost starved before I could get work. I cannot recollect what questions were asked me when I was naturalized; do not know what I swore to.

Q. Did you swear at the time you were naturalized that you had lived one year in the State of Pennsylvania immediately before you were naturalized?—A. No, sir; they did not ask me.

Had no right to vote, clearly.

k. George Lott, third division, Twenty-third ward, *voted for contestant*; no residence there. (Page 338.)

GEORGE S. LOTT, a witness for incumbent, (examined under eighteenth specification,) sworn, deposes and says:

I reside at 902 Pine street, Philadelphia, Seventh ward. I took my meals and slept,

except Saturday evenings and Sundays, at 902 Pine street, Philadelphia, at and before the October election. I was assessed in the third precinct, Twenty-third ward. I was not assessed no other place, to the best of my knowledge. My place of business is No. 329 Market street. I voted at the last October election in the third division, Twenty-third ward. I had my Sunday board there and had my washing done there during the whole summer season previous to the October election. I continued my Sunday meals in the third division, Twenty-third ward, after the October election. I always get my washing done there. I was born July 24, 1846. I was past twenty-two years old when I voted in the third division, Twenty-third ward, at the last October election. I have been sleeping and taking my meals at 902 Pine street about four or five months up to the present time; before that at 926 North Second street, for about four or five months. The year before, at the October election, 1867, *I took my meals and slept at No. 617 Chestnut street, Philadelphia. I voted at that election on age, at the corner of Sixth and Jayne streets, in the city of Philadelphia.* My residence was there at that time. At the last November election I voted in the third division of Twenty-third ward. My business was in the city of Philadelphia.

Question. In 1867, at the October election, when you voted on age, in the city of Philadelphia, did you take your Sunday meals and get your washing done in the third division, Twenty-third ward?—Answer. No, sir.

Q. Did you take your Sunday meals and get your washing done in the third division, Twenty-third ward, for the purpose of voting there at the last October election?—A. Yes, sir; and claimed that as my bona fide residence. I voted for Caleb N. Taylor for member of Congress at the last October election.

Cross-examined:

I lived with my father in the third division, Twenty-third ward, in his house at the time of the election. I am a single man. I considered my father's house my residence at that time. I intended to make it my residence when I went there.

Re-examined:

My father resided in third division, Twenty-third ward, in 1867; at that time I did not consider my father's house my residence. My place of business at that time was 617 Chestnut street. I took my meals at the same place. At the time I took my Sunday meals at my father's, I intended to make his house my residence.

Re-cross-examined:

I am not in business for myself. I am salesman for A. H. Snyder and Brothers.

Clearly illegal. Under like circumstances of residence in 1867, he voted in the city at the October election of that year on age. He was really a "colonizer" in the third division of the Twenty-third ward.

l. Wm. T. Blaken, same township, voted for contestant: non-resident; in 1867 and November, '68, the presidential election, voted in Philadelphia. (Pp. 338, 339.)

WILLIAM BLAKEN, a witness for incumbent, (examined under the twenty-second specification,) affirmed, deposes and says:

I reside No. 911 Arch street, Philadelphia. I have lived there since the 14th or 15th of November, 1868; before that I lived at Ninth and Filbert. I considered that my residence for some time after the October election. I had been staying there with a friend some time before the October election. I staid with that friend after the October election at the same place. I lived in Attleboro, Middletown Township, Bucks County, before I lived at Ninth and Filbert. I went to my friend's at Ninth and Filbert in the month of April, 1868. I have staid there until I changed my residence to Philadelphia.

Question. State how long you remained with your friend at Ninth and Filbert after the month of April, 1868.—Answer. I remained there until some time in November. I was employed at No. 4 Arch street, from April to November, 1868. I am a single man. I voted in Attleboro, Middletown Township, Bucks County, at the last October election. I voted for Caleb N. Taylor for member of Congress. I am twenty-three years old since October last.

Cross-examined:

I am a book-keeper for Woodruff & Bro. I lived with my mother at the time of the October election in Middletown Township, and considered that my home at that time. I was born and brought up in Middletown Township, Bucks County.

Q. Did you ever acquire any other home or residence than your mother's house?—A. I voted once in Philadelphia. When I voted at the October election my home was in Attleboro, Bucks County. I regarded that my residence at that time.

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Re-examined :

I voted in Philadelphia in 1867. I voted in Philadelphia, also, in November last. I gave up my residence with my mother several days after the last October election.

Q. In what way did you change your residence when you stated that you lived in Philadelphia, before and after the October election.—A. I changed my residence on account of circumstances connected with my business. Previous to that time I did not think that my position with Woodruff & Bro. was permanent. I was there on trial. I had no reason to believe that it was. I was in no business previous to going to Messrs. Woodruff & Bro. I was employed at Woodruff & Bro.'s since April, 1868, and am still there. I considered my mother's my home several months previous to the October election. I voted at Middletown at the spring election in 1868; this was before I went to the city. I visited my mother as often as my business would admit. I went there several times on Sunday morning and staid until Sunday evening.

Q. State whether anything else than your intention fixed your residence in Philadelphia, after the October election.—A. I changed my residence to Philadelphia in consequence of circumstances.

Q. Did you not carry your residence in your mind, and fix it in Middletown Township, during the month of October, for the purpose of voting there for member of Congress?—A. I did not. I paid tax in October last and the year before.

Re-cross-examined :

I paid tax in Middletown Township. I do not know if I was assessed there. I have every reason to believe that I was. I should have been.

Clearly illegal. Under like circumstances of residence in 1867, he voted in the city in October of that year, and in November, 1868, one month after he had voted in Attleboro Township, Bucks County. He was a colonizer. In addition, he swears he paid a tax, and does not know whether he was assessed.

m. Charles Pope, Lower Makefield Township, Bucks County, voted for contestant : was over age and had never paid taxes; voted on age.

CHARLES POPE, a witness produced, sworn, and examined on the part of the incumbent, deposes and says as follows, to wit :

I resided in Lower Makefield Township at the last October election. I voted at the October election for Caleb N. Taylor for Congress, and I suppose the whole republican ticket; I cannot say positively as to that; I do not know whether I was challenged or not; the election officers did not call me into the room and swear me, as I know of; I do not know whether I voted on age; I never paid any tax; I was not assessed; I do not know how old I am.

Question. From what your sister said, who is older than you, how old do you think you are?—Answer. I do not remember ever to have heard my sister say how old I was. I never voted before.

Q. How is it that you do not remember whether you were sworn and examined before you voted?—A. Because I was in liquor at the time. I left George Snyder's about one month before the election, and boarded at Robert Cook's. I left Snyder's because we did not agree.

Cross-examined :

Q. From the best information that you can obtain, how old were you on the day of last October election?—A. I think I was twenty-one last May; I think I was between twenty-one and two when I voted, and this belief that I was between twenty-one and two when I voted is founded upon the best information that I can obtain.

Re-examined :

I have no information on the subject of my age; no one ever told me, but to the best of my judgment I was between twenty-one and twenty-two when I voted. I did not want to vote, because I did not know my age; I would not have voted had I been sober, because I did not know for certain that I was of age; I was told I need not be sworn to my age; Algernon Cadwallader told me so; Cadwallader is a republican; he wanted me to vote before I was tight, and I think he did after I was tight; I know he voted me.

Re-cross-examined :

Q. You said a while ago that, to the best of your judgment, you were between twenty-one and twenty-two when you voted at last October; do you still think that you were at that age?—A. Yes, sir; I think so, but will I not swear to it.

n. Ebenezer Scull, fourth of Twenty-fifth, voted for contestant; had no residence. (His test., p. 40.)

EBENEZER SCULL, a witness produced, sworn, and examined on the part of said contestant, under the second and fourteenth specifications, deposes and says:

(Objected to as above.)

I resided at No. 1103 Hewson street at time of last October election. This is in the fourth division of the Twenty-fifth ward. I resided there about eight months and a half before the last October election. I voted in the fourth division of the Twenty-fifth ward. I voted the republican ticket to the best of my knowledge.

Cross-examined:

I was assessed in that division. I paid a State or county tax in 1868. I have lived here seventeen or eighteen years, except three months and a half out of it. This three months and a half I lived in Jersey. I returned from New Jersey in the spring of 1868, in the middle of April. I am not able to say it was before or after the fifteenth of April that I returned from Jersey. I don't remember on what date the lease of my house begins.

Question. Then you moved from Jersey back again into State of Pennsylvania in the month of April, 1868, and do not know what day of the month it was?—Answer. I meant I left there and arrived here about the middle of April. I did not open my ticket and examine it, and I do not know whether the name was on the ticket for Congress.

Re-examined:

Q. Did you go to New Jersey with the intention of making it your residence, or did you go there for a temporary purpose, intending to return to Pennsylvania?—A. I went there and laid out to stay there. I wasn't able to content myself there. I voted in New Jersey over thirty years ago. I am a married man. I took my family to New Jersey with me in 1868.

his
EBENEZER X SCULL.
mark.

o. John Stout, illegal vote for Taylor, pp. 18-198 contestant's testimony

SAMUEL W. WEISS, a witness called by contestant under same specification, being duly affirmed, says:

I lived in Milford Township, Bucks County. I was present at the last October election. The officers of the election were Henry Applebach, judge; Jacob Wenig and Edward Reiter were the inspectors; Peter Mumbower and Tobias Reiter were clerks. They were all of the democratic party. I was present when John Stout voted. His name could not be found on the assessor's list. As much as I know, Reiter put down his name with lead pencil and took his vote. He was neither sworn or affirmed. No qualified voter was sworn or affirmed for him. He made no proof of the payment of taxes, either by producing a receipt or making proof. He was not asked anything that I could hear. I could have heard any question put to him. I know Herman Lorache.

JOHN STOUT, being duly sworn, deposes and says:

I voted in Milford Township, Bucks County, at the last October election. I voted the republican ticket at said election. I got my ticket at the tavern. There were two kinds of tickets. I chose my tickets for myself. I lived in Milford Township. I had lived there one year. I had paid a State or county tax within two years before said election. I saw Taylor's name on my ticket for Congress.

Cross-examined:

I paid my tax, near one dollar, on election day, before I voted. I paid it to Esquire Reinhart. I was assessed in Milford. There is no other John Stout in Milford, to my knowledge.

JOHN STOUT.

Here then we have fifteen clearly illegal votes cast for contestant, which a majority of the committee refuse to deduct from his return of votes. There is no testimony more conclusive in the cases contained in Schedule B (Appendix of the committee's report) than is contained in the testimony as affecting these fifteen cases cited above. To my mind it is conclusive, and these votes should be deducted from the return of

the contestant. These votes deducted would leave the sitting member a clear, legal majority of twenty-eight votes.

RECAPITULATION.

Colonizer vote wrongly charged to sitting member.....	5
Pauper vote wrongly charged to sitting member.....	3
Soldier vote wrongly deducted from sitting member.....	7
Legal votes in the fourth division Twenty-fifth ward, wrongly deducted from sitting member.....	28
Vote in Bensalem, wrongly given to contestant.....	22
Add the corrected general return by the tally-lists.....	20
Illegal individual votes which should have been charged to contestant	15
Total.....	100
Deduct the alleged legal majority as reported by a majority of the committee (accepting their figures and conclusions, without any examination) as correct.....	72
The sitting member is elected by a clear legal majority of.....	28
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I, therefore, submit the following resolutions for adoption by the House of Representatives:

Resolved, That Caleb N. Taylor, the contestant, is not entitled to a seat in this House as representative from the fifth congressional district of Pennsylvania.

Resolved, That John R. Reading, the sitting member, is entitled to a seat in this House as representative from the fifth congressional district of Pennsylvania.

SAM'L J. RANDALL.

The Committee on the Judiciary report that they have had the honor to receive from the Honorable Secretary of the Interior a letter of the 10th inst. in relation to the application of the several tribes of Indians for the right of fishing in the waters of the State of Oregon.

The Committee on the Judiciary have the honor to acknowledge the receipt of a letter from the Honorable Secretary of the Interior of the 10th inst. in relation to the application of the several tribes of Indians for the right of fishing in the waters of the State of Oregon. The Committee on the Judiciary have the honor to acknowledge the receipt of a letter from the Honorable Secretary of the Interior of the 10th inst. in relation to the application of the several tribes of Indians for the right of fishing in the waters of the State of Oregon.

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JOSEPH SEGAR.

MARCH 29, 1870.—Laid on the table and ordered to be printed.

Mr. PAINE, from the Committee of Elections, made the following

REPORT.

The Committee of Elections, to which were referred the credentials of Joseph Segar, claiming a seat in this House as a representative of the State of Virginia at large in the forty-first Congress, submit the following report:

The credentials of the claimant are in the following form:

To all whom it may concern:

This is to certify, that at an election held in and for the State of Virginia, by the voters registered under the act of Congress of March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States," and the act supplementary thereto, and amendatory thereof, upon the question of ratifying or rejecting the constitution framed by the convention called under the authority of said laws, and at which election it was provided by the 2d section of the law of April 10, 1869, that the voters of said State may vote for and elect members of the general assembly of said State, and all the officers of said State provided for by the said constitution, and members of Congress, Joseph Segar was duly elected at large, as a representative to the Congress of the United States.

Given under my hand, at Richmond, Virginia, this 9th day of September, 1869.

ED. R. S. CANBY,

Bvt. Maj. Gen. U. S. A., Commanding First Military District.

The census act of May 23, 1850, contains the following provision:

SEC. 24. *And be it further enacted*, That from and after the third day of March, one thousand eight hundred and fifty-three, the House of Representatives shall be composed of two hundred and thirty-three members, to be apportioned among the several States in the manner directed in the next section of this act.

And by the 25th and 26th sections of the same act, it is provided that upon the completion of each enumeration of the inhabitants of the United States, the Secretary of the Interior, after ascertaining from the census returns the representative population of the United States, and of the several States, shall apportion the representatives among the several States, and "shall, as soon as practicable, make out and transmit, under the seal of his office, to the House of Representatives, a certificate of the number of members apportioned to each State under the then last enumeration." Under this act the census of 1860 was taken, and the Secretary of the Interior transmitted his certificate to the House in the following words:

DEPARTMENT OF THE INTERIOR, *Washington.*

I, Caleb B. Smith, Secretary of the Interior, do hereby certify that, in discharge of the duty devolved on me by the provisions of an act of Congress approved May 23, 1850, entitled "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and provide for their future apportionment among the several States," I have apportioned the representatives for the thirty-eighth Congress among the several States, as provided for by said act, in the manner directed by the 25th section thereof.

And I do hereby further certify that the following is a correct statement of the number of representatives apportioned to each State under the last (or eighth) enumeration of the population of the United States, taken in accordance with the act approved May 23, 1850, above referred to, namely :

To the State of Alabama, six.....	6
To the State of Arkansas, three.....	3
To the State of California, three.....	3
To the State of Connecticut, four.....	4
To the State of Delaware, one.....	1
To the State of Florida, one.....	1
To the State of Georgia, seven.....	7
To the State of Illinois, thirteen.....	13
To the State of Indiana, eleven.....	11
To the State of Iowa, five.....	5
To the State of Kansas, one.....	1
To the State of Kentucky, eight.....	8
To the State of Louisiana, five.....	5
To the State of Maine, five.....	5
To the State of Maryland, five.....	5
To the State of Massachusetts, ten.....	10
To the State of Michigan, six.....	6
To the State of Minnesota, one.....	1
To the State of Mississippi, five.....	5
To the State of Missouri, nine.....	9
To the State of New Hampshire, three.....	3
To the State of New Jersey, five.....	5
To the State of New York, thirty-one.....	31
To the State of North Carolina, seven.....	7
To the State of Ohio, eighteen.....	18
To the State of Oregon, one.....	1
To the State of Pennsylvania, twenty-three.....	23
To the State of Rhode Island, one.....	1
To the State of South Carolina, four.....	4
To the State of Tennessee, eight.....	8
To the State of Texas, four.....	4
To the State of Vermont, two.....	2
To the State of Virginia, eleven.....	11
To the State of Wisconsin, six.....	6

The aggregate being two hundred and thirty-three (233) representatives.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed this fifth day of July, in the year of our Lord one thousand eight hundred and sixty-one, and of the independence of the United States of America the eighty-sixth.

CALEB B. SMITH.

The SPEAKER of the House of Representatives of the United States.

In 1862 the number of representatives was increased by law as follows :

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March, eighteen hundred and sixty-three, the number of members of the House of Representatives of the Congress of the United States shall be two hundred and forty-one; and the eight additional members shall be assigned one each to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont, and Rhode Island.

Approved March 4, 1862.

In the same year the following act was passed:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in each State entitled in the next and any succeeding Congress to more than one representative, the number to which such State is or may be hereafter entitled shall be elected by districts composed of contiguous territory, equal in number to the number of representatives to which said State may be entitled in the Congress for which said election is held, no one district electing more than one representative: Provided, That the provisions of this act shall not apply to the State of California so far as it may affect the election of representatives to the thirty-eighth Congress: And provided further, That in the election of representatives to the thirty-eighth Congress from the State of Illinois the additional representative allowed to said State by an act entitled "An act fixing the number of the House of Representatives from and after the

third day of March, eighteen hundred and sixty-three, approved March fourth, eighteen hundred and sixty-two, may be elected by the State at large, and the other thirteen representatives to which the State is entitled by the districts as now prescribed by law in said State, unless the legislature of said State should otherwise provide before the time fixed by law for the election of representatives therein.

Approved July 14, 1862.

On the 31st day of December, 1862, an act was passed providing for the admission of the new State of West Virginia, to consist of forty-eight counties of Virginia, and to have, until the next general census, three representatives in the House of Representatives of the United States, which act was, by its own terms, to take effect at the expiration of sixty days from the date of a proclamation of the President therein provided for. The proclamation was duly issued on the 20th day of April, 1863, in the following words:

By the President of the United States of America :

A PROCLAMATION.

Whereas by the act of Congress approved the 31st day of December last, the State of West Virginia was declared to be one of the United States of America, and was admitted into the Union on an equal footing with the original States in all respects whatever, upon the condition that certain changes should be duly made in the proposed constitution for that State ; and

Whereas proof of a compliance with that condition, as required by the second section of the act aforesaid, has been submitted to me :

Now, therefore, be it known, that I, Abraham Lincoln, President of the United States, do hereby, in pursuance of the act of Congress aforesaid, declare and proclaim that the said act shall take effect and be in force from and after sixty days from the date hereof.

In witness whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington this twentieth day of April, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States the eighty-seventh.

[SEAL.]

ABRAHAM LINCOLN.

By the President :

WILLIAM H. SEWARD.

Secretary of State.

Subsequently the following joint resolution was adopted:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress hereby recognizes the transfer of the counties of Berkeley and Jefferson from the State of Virginia to West Virginia, and consents thereto.

Approved March 10, 1866.

The returns of the census of 1860 show that the representative population of the present State of Virginia was a little less than eight-elevenths of the entire representative population of the old State, including the counties now constituting West Virginia. While, however, the representative population of the counties constituting the present State of Virginia was not quite sufficient to entitle the State to eight of the eleven representatives apportioned to the old State, it was considerably more than sufficient to entitle it to seven of them, so that the assignment of eight to Virginia and three to West Virginia was the nearest practicable approach to an absolutely just distribution of the representation.

In no case have the acts providing for the readmission of the rebel States to the Union embraced any legislation changing or fixing the number of representatives of the readmitted State. In every case the State has been readmitted with the number of representatives fixed by the certificate of the Secretary of the Interior transmitted to the House under date of July 5, 1861.

The number of representatives assigned to the old State of Virginia by the apportionment of 1861 was, as has been already stated, eleven.

The number assigned to West Virginia by the act of admission was three. In the opinion of the committee, the present State of Virginia is by law entitled to only eight representatives, and the law requires that those shall be chosen by single districts.

It is due to the claimant that the grounds upon which he bases his claim to the seat should be fully and fairly considered.

1. He cites the last clause of section 5 of the act of March 23, 1867, which is in these words:

And if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and senators and representatives shall be admitted therefrom as therein provided.

And he alleges that the true meaning of the words "senators and representatives shall be admitted therefrom as *therein* provided," is that senators and representatives shall be admitted from those States as provided in *their constitutions*. But the word "therein" obviously refers to the *act* previously mentioned, which was the act of March 2, 1867, and did provide for admitting senators and representatives, and not to the State "constitutions," which could by no possibility embrace any valid provisions for the *admission* of senators and representatives, whatever provisions they might contain for their *election*. And then the truth is that the constitution of Virginia not only does not "provide" for the "admission" of senators and representatives, but does not even provide for their *election*. The only provision on the subject contained in that instrument will be found in section 12 of article 5, in these words:

SEC. 12. The whole number of members to which the State may at any time be entitled in the House of Representatives of the United States shall be apportioned, as nearly as may be, among the several counties, cities, and towns of the State, according to their population.

It is claimed, however, that certain ordinances of the constitutional convention did provide for a ninth representative, to be elected by the State at large, and that these ordinances are, to all intents and purposes, a part of the constitution itself. The following are the ordinances referred to:

SECTION 1. *Be it ordained by the people of Virginia in convention assembled*, That the constitution adopted by this convention be submitted for ratification on Tuesday, the 2d day of June, 1868, to the voters of this State, registered and qualified in compliance with the acts of Congress known as the reconstruction acts. The vote on said constitution shall be "for the constitution" or "against the constitution." The said election shall be held at the same places where the election for delegates to this convention was held, and under the regulations to be prescribed by the commanding general of this military district, and the returns made to him as directed by law.

SEC. 2. An election shall be held at the same time and places for members of the general assembly, and for all State officers to be elected by the people under this constitution; the said election for State officers shall be conducted under the same regulations as the election for the ratification of the constitution, and by the same persons. The returns of this election shall be made in duplicate—one copy to the commanding general and one copy to the president of this convention, who shall give certificates of election to the persons elected. The officers elected shall enter upon the duties of the offices for which they are chosen as soon as elected and qualified, in compliance with the provisions of this constitution, and shall hold their respective offices for the term of years prescribed by the constitution, counting from the 1st day of January next, and until their successors are elected and qualified.

SEC. 3. An election for members of the United States Congress shall be held in the congressional districts as established by this convention, one member of Congress being elected in the State at large at the same time and places as the election for State officers; said election to be conducted by the same persons and under the same regulations before mentioned in this ordinance; the returns to be made in the same manner provided for State officers.

SEC. 4. The general assembly elected under this ordinance shall assemble at the capital, in the city of Richmond, on Wednesday, the 24th day of June, 1868.

SEC. 5. The commanding general is requested to enforce this ordinance.

Be it ordained by the people of Virginia in convention assembled, That the following named counties shall compose the respective congressional districts:

The counties of Accomac, Northampton, Northumberland, Richmond, Westmoreland, Essex, Lancaster, Middlesex, King and Queen, King William, Gloucester, Matthews, York, James City, city of Williamsburg, Elizabeth City, Warwick, King George, and Caroline, with a population of 151,295, shall form the first congressional district.

The counties of Princess Anne, Norfolk City, Norfolk County, city of Portsmouth, Nansemond, Southampton, Greenesville, Sussex, Surry, Dinwiddie, city of Petersburg, Prince George, Isle of Wight, and Nottoway, with a population of 150,584, shall form the second congressional district.

The counties of Charles City, Henrico, city of Richmond, Hanover, Chesterfield, Goochland, Powhatan, Amelia, Cumberland, and New Kent, with a population of 149,021, shall form the third congressional district.

The counties of Brunswick, Mecklenburg, Lunenburg, Charlotte, Halifax, Pittsylvania, Franklin, Patrick, and Henry, with a population of 160,730, shall form the fourth congressional district.

The counties of Greene, Albemarle, Fluvanna, Nelson, Buckingham, Amherst, Appomattox, Bedford, Campbell, Prince Edward, and the city of Lynchburg, with a population of 155,490, shall form the fifth congressional district.

The counties of Frederick, city of Winchester, Clarke, Warren, Page, Shenandoah, Rockingham, Augusta, town of Staunton, Highland, Bath, Botetourt, Alleghany, and Rockbridge, with a population of 146,824, shall form the sixth congressional district.

The counties of Alexandria, Fairfax, Prince William, Fauquier, Stafford, Rappahannock, Culpeper, Spottsylvania, town of Fredericksburg, Orange, Louisa, Loudoun, and Madison, with a population of 158,295, shall form the seventh congressional district.

The counties of Montgomery, Giles, Pulaski, Wythe, Bland, Tazewell, Smyth, Washington, Russel, Scott, Lee, Wise, Buchanan, Grayson, Carroll, Floyd, Craig, and Roanoke, with a population of 147,679, shall form the eighth congressional district.

And there shall be one member of Congress elected by the State at large.

This ordinance shall be in force from its passage, and may be altered or repealed by the legislature.

But neither of these ordinances was ever submitted to or ratified by the people of Virginia as a part of the constitution. On the contrary, by the last section of the first "the commanding general is requested to enforce this ordinance," and by the last clause of the second it is ordained that "this ordinance shall be in full force from its passage, and may be altered or repealed by the legislature." Nor is it possible to overlook the suggestive fact that this convention, instead of dividing the State into nine congressional districts, prudently divided it into eight, and provided that the ninth representative should be chosen by the State at large.

2. The claimant alleges that, inasmuch as the last section of the act of April 10, 1869, provides "that the proceedings in any of said States shall not be deemed final, or operate as a complete restoration thereof, until their action, respectively, shall be approved by Congress," the subsequent admission of Virginia was a virtual approval of all the "action" of that State, including the provision by ordinance for, and the election by the people of, a ninth representative of the State at large. But, in the first place, he thus construes the clause cited to be a declaration that the State of Virginia should not be restored to the Union by Congress until all the action of the State should be approved by Congress, whereas the actual provision was that the "proceedings in" Virginia should not, of themselves, restore the State until such approval by Congress. In the next place, this reasoning assumes that if Congress had, in April, 1869, declared (as it did not in fact) that Virginia should not be restored by Congress without an approval by Congress of all the "action" of Virginia, then Congress could not, in January, 1870, have admitted Virginia without an approval of all the "action" of the State, whereas in fact the law of January 26, 1870, by which Virginia was admitted does not itself,

expressly or by implication, approve the provision for a representative of the State at large.

3. The claimant cites the following provision of the act which took effect on the 11th day of March, 1868:

SEC. 2. *And be it further enacted*, That the constitutional convention of any of the States mentioned in the acts to which this is amendatory may provide that, at the time of voting upon the ratification of the constitution, the registered voters may vote also for members of the House of Representatives of the United States, and for all elective officers provided for by the said constitution; and the same election officers who shall make the return of the votes cast on the ratification or rejection of the constitution shall enumerate and certify the votes cast for members of Congress.

And he insists that the authority conferred by this act carries with it the power, first, to district the State, and, secondly, to fix the number of its representatives; and that these two powers stand on the same footing. But the power to district a State, in accordance with the federal apportionment, is, by section 4 of article 1 of the Constitution of the United States, conferred upon the State subject to the control of Congress, whereas the power to fix or alter the number of members of the House of Representatives of the United States is vested exclusively in the federal government, and even if there is doubt whether a State *can* exercise the power to district its territory for the election of representatives otherwise than through its ordinary legislature, there is no doubt that a State *can not* exercise the power to fix the size of the federal House of Representatives, whether through its ordinary legislature, or its constitutional convention, or in any other way.

4. The claimant also alleges that he ought to be admitted because the House of Representatives agreed to a bill on the 9th day of July, 1868, and to another on the 9th day of December, 1868, authorizing the people of Virginia to elect a ninth representative at large, and because the Judiciary Committee of the Senate reported favorably on the latter bill. This argument would certainly be unanswerable if either of these bills had ever become a law, for then the people of Virginia would have been warranted in choosing a ninth representative at the election subsequently held on the 5th day of July 1869. But neither of these bills ever became a law. On the contrary, this provision for a ninth representative was ultimately defeated and the action of Congress culminated in the law of April 10, 1869, which contained no such provision. In all this the committee find no element of strength for the plaintiff's case. On the other hand the consideration and final rejection of this proposition would seem to leave the claimant's case weaker than it would have been if no such bills had been introduced at all.

5. Another ground of the claim to this seat is this: that "the Virginia convention, in executing the order of Congress to frame a constitution, had the authority to do all proper acts required to make it effectual and complete," and was, therefore, warranted in making the provision for a ninth representative in Congress. This involves a singular confusion of ideas. In the first place, the convention could not *ratify* this constitution, and so of course could not make it effectual and complete. In the next place the United States made minute provision for the details of the registration and election, and expressly indicated, in section 8 of the act of March 23, 1867, and in section 2 of the act of March 11, 1868, the subjects on which the convention might by ordinance legislate. And finally, the provision for a ninth representative in Congress has nothing whatever to do with making the constitution effectual and complete.

6. Another argument of the claimant is that Virginia is entitled to the same number of representatives to which her aggregate population, including all the slaves, as shown by the census of 1860 would entitle

her, if this were her original admission into the Union. If this were true, it might be a good reason for asking Congress to enact a law giving Virginia nine representatives, but could by no possibility be a reason for asking this house to admit nine representatives without a law of Congress to authorize it.

But is it true that Virginia can justly claim that a law shall be enacted to give her *at once*, as the result of her secession from and readmission to the Union, that increase of representation for which the other States, loyal and disloyal, slave and free, must wait until the apportionment under the next census? If Virginia is entitled to immediate representation of the two-fifths of her colored population recently added to her basis of representation by the fourteenth article of the amendments to the Constitution of the United States, without awaiting the next census, so also is each of the other late rebel States; and the case of most of them is much stronger than hers, because their proportion of blacks is much greater. If Virginia is entitled to such increase now, so also are Maryland, Delaware, Kentucky, and Missouri, unless Virginia is to have this distinction because she rebelled, seceded, and was readmitted, and they did not. If Virginia is entitled to this increase now, and Iowa and the other free States must await the next enumeration and apportionment, it must be for one or more of three reasons: first, that the increment to the basis of representation of Virginia has resulted from a constitutional amendment, while that of Iowa and the other States, always free, has resulted from actual increase of population; or, second, that the increment in Virginia is black, and that in Iowa and the other States white; or, third, that Virginia rebelled, and Iowa and the other States remained loyal. These reasons are all unsound. If such a law is passed now it should be a general law, to enure to the benefit of all of the States.

7. Finally, the claimant thinks that the certificate of General Canby ought to be conclusive of his right to a seat, "unless in case of contest or of the allegation of fraud or of palpable clerical mistake."

This assumes, of course, that the seat itself is provided for by law. But that is the very question and the only question in this case, and to that question the committee are constrained to give a negative answer.

The committee submit the following resolution:

Resolved, That Joseph Segar is not entitled to a seat as a representative of the State of Virginia at large in the forty-first Congress of the United States.

JOSEPH SEGAR.

APRIL 12, 1870.—Laid on the table and ordered to be printed.

Mr. STEVENSON, from the Committee of Elections, submitted the following as their views.

The undersigned, members of the Committee of Elections, to which were referred the credentials of Joseph Segar as representative from the State of Virginia in the forty-first Congress, submit the following minority report:

THE APPORTIONMENT.

Under the apportionment of representatives in Congress, on the census of 1860, the State of Virginia was entitled to *eleven* members. No law has been enacted affecting this apportionment, unless the reconstruction acts relative to that State can be so construed.

The acts and proceedings creating and admitting the new State of West Virginia are silent on this question. They fix the number of representatives from the new State, but do not touch the topic of representation from Virginia.

It seems to be assumed that because the new State was formed from the side of the old, therefore the act of Congress giving West Virginia the right to three representatives reduced the quota of Virginia from eleven to eight; but we respectfully submit that no such important conclusion can be properly or safely implied from laws containing neither syllable nor letter to support it; and that such latitude of construction would overthrow all rights founded upon statutes.

If the apportionment on the census of 1860 applies at all, it must be accepted in its terms, and entitles the State of Virginia to her full quota of eleven representatives, instead of nine elected or eight admitted.

RECONSTRUCTION.

The case of Virginia was singular, and required special action; all other reconstructed States when readmitted had their boundaries unchanged, and were admitted to representation upon the old basis, and with the number of members assigned to each of them under the last apportionment; but the boundaries of Virginia had been changed, the congressional districts had been broken up, and it was therefore necessary to redistrict the State and proper to change the number of her representatives.

Here was a subject for adjustment by Congress with the assent of the State, or by the State with the consent of Congress.

The enabling reconstruction acts authorizing a convention to form a new constitution not proposing any change in the number of representatives, it was proper for that convention to propose such a measure, subject to approval, rejection, or modification by Congress.

The convention found the representative population largely increased, the number of electors nearly double, but instead of claiming eleven representatives, it provided for the election of nine, eight by districts and one by the State at large.

This was done by ordinance, one for the election of officers, the third section of which is as follows :

SEC. 3. *An election for members of the United States Congress shall be held in the congressional districts as established by this convention, one member of Congress being elected in the State at large at the same time and places as the election for State officers ; said election to be conducted by the same persons and under the same regulations before mentioned in this ordinance ; the returns to be made in the same manner provided for State officers.*

The other redistricting the State, which is as follows :

Be it ordained by the people of Virginia in convention assembled, That the following-named counties shall compose the respective congressional districts :

The counties of Accomac, Northampton, Northumberland, Richmond, Westmoreland, Essex, Lancaster, Middlesex, King and Queen, King William, Gloucester, Matthews, York, James City, city of Williamsburg, Elizabeth City, Warwick, King George, and Caroline, with a population of 151,295, shall form the first congressional district.

The counties of Princess Anne, Norfolk City, Norfolk County, city of Portsmouth, Nansemond, Southampton, Greensville, Sussex, Surry, Dinwiddie, city of Petersburg, Prince George, Isle of Wight, and Nottoway, with a population of 150,584, shall form the second congressional district.

The counties of Charles City, Henrico, city of Richmond, Hanover, Chesterfield, Goochland, Powhatan, Amelia, Cumberland, and New Kent, with a population of 149,021, shall form the third congressional district.

The counties of Brunswick, Mecklenburg, Lunenburg, Charlotte, Halifax, Pittsylvania, Franklin, Patrick, and Henry, with a population of 160,730, shall form the fourth congressional district.

The counties of Greene, Albemarle, Fluvanna, Nelson, Buckingham, Amherst, Appomattox, Bedford, Campbell, Prince Edward, and the city of Lynchburg, with a population of 155,490, shall form the fifth congressional district.

The counties of Frederick, city of Winchester, Clarke, Warren, Page, Shenandoah, Rockingham, Augusta, town of Staunton, Highland, Bath, Botetourt, Alleghany, and Rockbridge, with a population of 146,824, shall form the sixth congressional district.

The counties of Alexandria, Fairfax, Prince William, Fauquier, Stafford, Rappahannock, Culpeper, Spottsylvania, town of Fredericksburg, Orange, Louisa, Loudon, and Madison, with a population of 158,295, shall form the seventh congressional district.

The counties of Montgomery, Giles, Pulaski, Wythe, Bland, Tazewell, Smyth, Washington, Russell, Scott, Lee, Wise, Buchanan, Grayson, Carroll, Floyd, Craig, and Roanoke, with a population of 147,679, shall form the eighth congressional district.

And there shall be one member of Congress elected by the State at large.

This ordinance shall be in force from its passage, and may be altered or repealed by the legislature.

It will be seen that in each district there is a large surplus population, and after allowing a member at large there remain over seventy-five thousand people unrepresented, more than half enough for another district. Before any election was held under the ordinances for the ratification or rejection of the constitution and for State officers and representatives, the proceedings were submitted to Congress for approval, modification, or rejection.

The ordinances providing for the election of nine members of Congress, one from the State at large, might have been modified. Had Congress objected to the number of members or to the election of a member at large, the number might have been reduced to eight, and the election at large forbidden, and the consent of the State to those terms made a condition precedent to admission ; but no such action was taken or proposed in either House, while on the contrary, two bills were passed by this House providing for the election of members according

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to the terms of the ordinances expressly mentioning one at large. (See H. R. 1381, 40th Congress, 2d session, "An act providing for an election in Virginia," which passed the House July 9, 1868.)

SECTION 3. *And be it further enacted, That an election for members of the United States Congress shall be held in the congressional districts as established by said convention, one member of Congress being elected in the State at large, at the same time and places as the election for State officers; said election to be conducted by the same persons and under the same regulations before mentioned in this act; the returns to be made in the same manner provided for State officers.*

This bill was not acted on by the Senate except by reference to committee, and at the third session of the fortieth Congress, December 9, 1868, the House passed H. R. 1485, "An act providing for an election in Virginia," the 3d section of which was as follows:

SEC. 3. *And be it further enacted, That an election for members of the United States Congress shall be held in the congressional districts as established by said convention, one member of Congress being elected in the State at large, at the same time and places as the election for State officers; said election to be conducted by the same persons and under the same regulations before mentioned in this act; the returns to be made in the same manner provided for State officers.*

This section was explained in debate by Mr. Bingham, who represented the Committee on Reconstruction, from which the bill came. No objection was made to its provisions, and the bill passed the House without a division. (See *Globe*, vol. 71, pp. 31, 37.)

On February 18, 1869, it was reported back to the Senate from the Committee on the Judiciary, to which it had been referred, unanimously recommending its passage with amendments not affecting the third section. No further action was had until the special message of the President and the passage of the act of April 10, 1869, which authorized the President to cause an election to be held for ratification or rejection of the new constitution of Virginia and the election of State officers and members of Congress, and provided that all proceedings should be subject to the approval of Congress.

While this act did not *expressly* authorize the election of *nine* members of Congress—one at large—yet, as it authorized the election of members without prescribing any change in the manner or the number provided for by the ordinances of the convention, and as they could not therefore be chosen in any other manner than that provided and not forbidden, the conclusion clearly follows that the act authorized the election of members according to the ordinances.

It was therefore proper that the President should have proceeded under this act as he did, by the general commanding, to order an election to be held for nine members of congress, including one at large.

Here are extracts from the proclamation of general orders under which that election was held:

[General Orders No. 61.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, May 21, 1869.

The President of the United States having designated Tuesday, the 6th day of July, 1869, for submitting the "constitution which was framed by the convention which met in Richmond, Virginia, on Tuesday, the 3d day of December, one thousand eight hundred and sixty-seven, to the voters of said State, registered at the date of said submission for ratification or rejection;" and having directed that the following provisions of the said constitution, to wit:

* * * * *

First. That an election be held in the State of Virginia on Tuesday, the 6th day of July, 1869, at which election all registered voters of said State may vote "For constitution" or "Against constitution," (the provisions submitted to a separate vote being excepted,) and also on the same ballot "may vote for and elect members of the general

assembly of said State, and all the officers of said State, provided for by the said constitution, and members of Congress," as apportioned by the ordinance adopted by the constitutional convention, and as hereinafter specified.

Thirty-first. The first congressional district is composed of the counties of Accomac, Northampton, Northumberland, Richmond, Westmoreland, Essex, Lancaster, Middlesex, King and Queen, King William, Gloucester, Matthews, York, James City, city of Williamsburg, Elizabeth City, Warwick, King George, and Caroline.

The second congressional district is composed of the counties of Princess Anne, Norfolk City, Norfolk County, city of Portsmouth, Nansemond, Southampton, Greenesville, Sussex, Surry, Dinwiddie, city of Petersburg, Prince George, Isle of Wight and Nottoway.

The third congressional district is composed of the counties of Charles City, Henrico, city of Richmond, Hanover, Chesterfield, Goochland, Powhatan, Amelia, Cumberland, and New Kent.

The fourth congressional district is composed of the counties of Brunswick, Mecklenburg, Lunenburg, Charlotte, Halifax, Pittsylvania, Franklin, Patrick, and Henry.

The fifth congressional district is composed of the counties of Greene, Albemarle, Fluvanna, Nelson, Buckingham, Amherst, Appomattox, Bedford, Campbell, Prince Edward, and the city of Lynchburg.

The sixth congressional district is composed of the counties of Frederick, city of Winchester, Clarke, Warren, Page, Shenandoah, Rockingham, Augusta, town of Staunton, Highland, Bath, Botetourt, Alleghany, and Rockbridge.

The seventh congressional district is composed of the counties of Alexandria, Fairfax, Prince William, Fauquier, Stafford, Rappahannock, Culpeper, Spotsylvania, town of Fredericksburg, Orange, Louisa, Loudon, and Madison.

The eighth congressional district is composed of the counties of Montgomery, Giles, Pulaski, Wythe, Bland, Tazewell, Smyth, Washington, Russell, Scott, Lee, Wise, Buchanan, Grayson, Carroll, Floyd, Craig, and Roanoke.

In each of which districts, one person shall be elected as representative to the Congress of the United States by the qualified electors of the district. In addition, one representative to Congress shall be elected by the ballots of the registered voters, voting at large throughout the State.

By command of Brevet Major General Canby.

LOUIS V. CAZIARC,
Aide-de-Camp, Acting Assistant Adjutant General.

Under these orders the election was held for member at large, two candidates competing for that office, and the people supporting them by their suffrages, and the result was proclaimed by general orders, from which the following are extracts:

[General Orders No. 104.]

HEADQUARTERS FIRST MILITARY DISTRICT, STATE OF VIRGINIA,
Richmond, Virginia, September 8, 1869.

At the election held in the State of Virginia on the 6th day of July, 1869, pursuant to General Orders No. 61, headquarters first military district, dated May 21, 1869, and under the authority of the law of the United States of March 2, 1867, and the laws supplementary thereto and amendatory thereof, and of the proclamation issued by the President of the United States on the 14th day of May, 1869.

7. That the following-named persons have received a majority (or plurality) of the votes cast by the qualified electors of their respective congressional districts, as established by an ordinance of the convention adopted April 14, 1868, and are entitled to certificates of election as members of the House of Representatives of the Congress of the United States for the said districts, as hereinafter specified:

First congressional district—Richard S. Ayer.
Second congressional district—James H. Platt, jr.
Third congressional district—Charles H. Porter.
Fourth congressional district—George W. Booker.
Fifth congressional district—Robert Ridgway.
Sixth congressional district—William Milnes, jr.
Seventh congressional district—Lewis McKensie.
Eighth congressional district—James K. Gibson.

8. The following named person has received a majority of the votes cast by the qualified electors of the State voting at large throughout the State for member of Congress at large, as

prescribed by the ordinance of the convention, April 14, 1868, and is entitled to certificate of election:

State at large—Joseph Segar.

By command of Brevet Major General Canby:

LOUIS V. CAZIARC,
Aide-de-Camp, Acting Assistant Adjutant General

And thereupon the general commanding issued the following certificate of election:

To all whom it may concern:

This is to certify, that at an election held in and for the State of Virginia, by the voters registered under the act of Congress of March 2, 1867, entitled "*An act to provide for the more efficient government of the rebel States,*" and the act supplementary thereto, and amendatory thereof, upon the question of ratifying or rejecting the constitution framed by the convention called under the authority of said laws, and at which election it was provided by the 2d section of the law of April 10, 1869, that the voters of said State may vote for and elect members of the general assembly of said State, and all the officers of said State provided for by the said constitution, and members of Congress, Joseph Segar was duly elected at large, as a representative to the Congress of the United States.

Given under my hand, at Richmond, Virginia, this 9th day of September, 1869.

ED. R. S. CANBY,
Bvt. Maj. Gen. U. S. A., Commanding First Military District.

All the proceedings, including these, were submitted to Congress at the present session, and after full discussion approved, subject to certain conditions, and the State was readmitted. In the protracted and earnest debates, no objection was made to the provisions of the ordinance, fixing the number of representatives at nine instead of eleven, and for the election of one for the State at large, nor to the proceedings resulting in the election of such representative. It is not denied, but is freely admitted, that the power was in Congress at all times prior to the final admission of the State to representation, to have prescribed the quota of representatives, and to have regulated their election, but we respectfully submit that by the acceptance of the State constitution and the approval of the proceedings cited with other conditions, and the final admission of the State without modification of the ordinance of the convention or the proceedings thereunder, Congress has accepted the proposition made by Virginia to readjust her quota of representatives and fix the number at nine instead of eleven, and to elect one member at large and approve her action and that of the President, by the general commanding, and we submit that this settlement of the question, which might otherwise have been mooted in the next Congress, is not to be regretted, especially as it gives to the State no more than her due proportion of representatives and recognizes the right of the newly enfranchised citizens to representation.

REPRESENTATIVES AT LARGE.

A technical objection may be based upon the provision of the act of June 25, 1842, re-enacted in subsequent acts,

That in each State entitled in the next and any succeeding Congress to more than one representative, the number to which such State is or may be hereafter entitled shall be elected by districts composed of contiguous territory, equal in number to the number of representatives to which said State may be entitled in the Congress for which said election is held, no one district electing more than one representative.

If this provision were deemed applicable, we might answer the objection by showing that it has never been observed, and is not now observed, by this House.

In the Twenty-eighth Congress, the first after this provision was enacted, the House admitted twenty members at large from the States of New Hampshire, Georgia, Mississippi, and Missouri, respectively, and voted that they had a right to their seats. (See Con. Elect. Cases, 2, p. 47.)

In the Thirty-fifth Congress, in 1858, the House decided "*That the election of members by general ticket instead of by districts is not a bar to admission to seats in the House.*" (See case of Phelps and Cavanaugh, Con. Elect. Cases, 2, p. 248.)

That case was from a newly-admitted State, and therefore analogous to this of the re-admission of a reconstructed State with changed boundaries. But the most striking case is that of the State of Illinois, which has been, ever since the Thirty-eighth Congress, and is now, represented in this House by a member at large notwithstanding this provision, the proviso allowing her a representative at large having expired with the Thirty-eighth Congress. See act of July 14, 1862, which contains the following:

And provided further, That in the election of representatives to the thirty-eighth Congress from the State of Illinois, the additional representative allowed to said State by an act entitled "An act fixing the number of the House of Representatives from and after the third day of March, eighteen hundred and sixty-three," approved March fourth, eighteen hundred and sixty-two, may be elected by the State at large, and the other thirteen representatives to which the State is entitled by the districts, as now prescribed by law in said State, unless the legislature of said State should otherwise provide before the time fixed by law for the election of representatives therein.

But it is not deemed necessary to dwell upon this point, because it seems obvious that the general act is not applicable to a reconstructed State when a change of circumstances calls for special action.

CONCLUSION.

On the whole case, we conclude that, whether it be regarded as a question of strict law or as one of equity, the member elect from the State at large should be admitted to a seat. We therefore recommend the adoption of the following resolution:

Resolved, That Joseph Segar is entitled to a seat as a representative of the State of Virginia at large in the forty-first Congress of the United States.

Respectfully submitted.

JOB E. STEVENSON.
D. HEATON.
S. S. BURDETT.

I concur in the conclusion of the preceding report, as expressed in the resolution giving Mr. Segar his seat.

P. M. DOX.

ELIAS C. BOUDINOT.

MARCH 30, 1870.—Ordered to be printed and recommitted to the Committee on the Judiciary.

MR. KERR, from the Committee on the Judiciary, made the following

REPORT.

[To accompany joint resolution H. R. No. 219.]

The Committee on the Judiciary have had the following preamble and resolution under consideration :

Whereas the tenth article of the treaty of July 19, 1866, between the United States and the Cherokee nation of Indians stipulates in these words: "Every Cherokee and free person resident in the Cherokee nation shall have the right to sell any products of his farm, including his or her live stock or any merchandise or manufactured products, and to ship and drive the same to market without restraint, paying a tax thereon, which is now or may be levied by the United States, on the quantity sold outside of the Indian Territory;" and whereas Elias C. Boudinot, a "Cherokee, resident in the Cherokee nation," confiding in the faith of the government, did, subsequent to the date of said treaty, manufacture and sell tobacco in the Cherokee nation "without restraint;" and whereas it is not charged by any party that the said Boudinot ever sold any "manufactured products" "outside of the Indian Territory" without paying the tax thereon levied by the United States; and whereas on the 20th of July, 1868, an act imposing taxes on distilled spirits and tobacco, and for other purposes, was passed, the one hundred and seventh section of which reads as follows :

"And be it further enacted, That the internal revenue laws, imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars, shall be held and construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be within a collection district or not."

And whereas the said Boudinot, after the passage of said act of July 20, 1868, referred the question of his right to manufacture and sell his manufactured products within the Indian Territory without paying tax thereon to the United States to Mr. Rollins, at that time Commissioner of Internal Revenue; and whereas on the 23d day of February, 1869, in response to such reference, Mr. Rollins decided that "notwithstanding the language of said section, the tax could not be collected upon tobacco manufactured in the Indian country so long as it remained in said country; but upon its being brought within any collection district of the United States it would be liable to seizure and forfeiture unless it should be properly stamped, thus indicating that the tax imposed by law had been paid;" and whereas, after Hon. Columbus Delano succeeded Mr. Rollins as Commissioner of Internal Revenue, the said Boudinot submitted the same questions to Mr. Delano, citing the one hundred and seventh section of the act of July 20, 1868, and the tenth article of the Cherokee treaty of 1866; and whereas Commissioner Delano referred the questions submitted to his legal adviser, to which the following opinion was given :

"In the matter of taxes on tobacco produced in the territory of the Cherokee nation.

"SIR: I have examined the argument of Colonel Elias C. Boudinot, a citizen of the Cherokee nation, against the collection within its territory of taxes upon tobacco manufactured there, and have the honor to make the following reply :

"The question whether section 107 of the act of 20th July, 1868, intended that the revenue laws relating to tobacco and spirits produced in "the Indian country" should be extended into that country and there enforced, was submitted to me by yourself about the 12th day of August last. I had the honor to advise you that, without any reference to existing treaties, it was apparent on the face of the statute itself that Congress did not intend to apply the revenue laws to the Indian country itself, but to the

articles produced there; and that the application could be made only to such part of these manufactures as might be carried thence into the States or Territories of the United States. The action of your office was afterward taken in accordance with this advice, and instructions to that effect were sent, as I was informed, to the revenue officers of Kansas, Missouri, and Texas.

"Very respectfully,

"CHARLES P. JAMES,
"Counselor at Law.

"Hon. COLUMBUS DELANO,
"Commissioner of Internal Revenue."

And whereas Commissioner Delano wrote the following letter:

"TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
"Washington, October 21, 1869.

"GENTLEMEN: This office does not propose to apply within the territories of the Cherokee nation the revenue laws relating to tobacco and spirits produced there, but holds that section 107 of the act of 20th July, 1868, applies to the articles themselves, and will be enforced when those articles are carried into the States or Territories of the United States for sale. The grounds of this determination and the instructions given to the revenue officers are more fully explained by the accompanying memorandum of opinion by Judge James, to whom the question was originally referred.

"Very respectfully,

"C. DELANO,
"Commissioner.

"Messrs. PIKE & JOHNSON,
"Counselors at Law."

All of which opinion of Judge James and letter of Commissioner Delano were authorized to be sent, and were sent, to the said Boudinot as the final settlement of the question; and whereas but a few days after the date of the Commissioner's decision he authorized and instructed the supervisor of internal revenue for the district of Arkansas to seize the tobacco factory of the said Boudinot in the Cherokee nation; and whereas, in pursuance to such instructions, the property of the said Boudinot in the Indian country was seized, and he arrested as a felon without notice of any change in the opinion of the Commissioner, and for no other offense than pursuing a legitimate business specially authorized by treaty and the repeated decisions of the revenue department; and whereas the said Boudinot has applied to have the merits of his case referred to the Attorney General for his decision, and the Secretary of the Treasury has refused to submit the questions involved to the Attorney General; and whereas the said Boudinot has not given bail, but is still at large, courting arrest in vain, that he may obtain a decision from the courts: Therefore,

Be it resolved by the House of Representatives of the United States of America, That the Committee on the Judiciary be, and is hereby, instructed to inquire into the foregoing statements of fact, and provide for the proper enforcement of the stipulations of the treaty with the Cherokee nation and for the protection of the individual rights herein involved, and that they be authorized to report at any time by bill or otherwise.

Mr. Speaker: Your committee find the facts to be as follows:

On the 19th day of July, 1866, a treaty with the Cherokee nation of Indians was made and ratified by the United States, in the 10th article of which it was stipulated in these words:

Every Cherokee and freed person resident in the Cherokee nation shall have the right to sell any products of his farm, including his or her live stock, or any merchandise or manufactured products, and to ship and drive the same to market without restraint, paying any tax thereon which is now or may be levied by the United States on the quantity sold outside of the Indian Territory.

Mr. Boudinot being a "resident in the Cherokee nation," established a factory for the manufacture of tobacco in the Cherokee nation, and claimed and exercised the right to ship his manufactured products to market "without restraint;" and it is not charged or pretended that he ever sold, or attempted to sell, any part of such manufactured products "outside of the Indian Territory, without paying the tax thereon levied by the United States. Your committee find that previous to July 14, 1868, Mr. Boudinot addressed a letter to Commissioner Rollins, respecting his rights as a manufacturer of tobacco in the Cherokee nation, to which letter he received the following reply:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, July 14, 1868.

SIR: In your letter of May 8, you state that you have a factory for the manufacture of tobacco in the Cherokee nation in the Indian Territory, and you ask my opinion as to whether you have a legal right to sell tobacco manufactured at such factory without the payment of the revenue tax thereon, at any place you may choose to sell it, whether in the Cherokee nation or elsewhere in any of the United States.

I reply, that in my opinion, under *existing* laws, no tax can be legally assessed and collected upon tobacco manufactured at such factory, whether it be sold in the Cherokee country or elsewhere in any of the United States. I do not, however, feel called upon to express any opinion as to the effect which the bill now before Congress may have upon this question should it become a law.

Very respectfully,

JOHN E. RISLEY,
Deputy Commissioner.

E. C. BOUDINOT, Esq.,
Washington, D. C.

The bill "before Congress," referred to by Deputy Commissioner Risley, became a law on the 20th of July, 1868, six days after the date of the foregoing letter; the 107th section of which reads as follows:

And be it further enacted, That the internal revenue laws imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars shall be held and construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be within a collection district or not.

After the act of July 20, 1868, became a law, the said Boudinot again referred the question of his liabilities and rights in the premises to Commissioner Rollins; and on the 23d of February, 1869, was officially informed that "notwithstanding the language of said section, the tax could not be collected upon tobacco manufactured in the Indian country so long as it remained in said country; but upon its being brought within any collection district of the United States it would be liable to seizure and forfeiture unless it should be properly stamped, thus indicating that the tax imposed by law had been paid."

After the succession of Mr. Delano to the office of Commissioner of Internal Revenue, Mr. Boudinot presented to him a frank statement of his business as a manufacturer of tobacco in the Cherokee nation, and requested an official opinion, as he had previously done of Mr. Rollins, respecting his rights and liabilities. In reply to such statement and request, Commissioner Delano, on the 21st day of October, 1869, wrote the following letter:

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, October 21, 1869.

GENTLEMEN: This office does not propose to apply, *within* the territories of the Cherokee nation, the revenue laws relating to tobacco and spirits produced there, but holds that section 107 of the act of 20th July, 1868, applies to the articles themselves, and will be enforced when those articles are carried into the States or Territories of the United States for sale. The grounds of this determination, and the instructions given to the revenue officers, are more fully explained by the accompanying memorandum of opinion by Judge James, to whom the question was originally referred.

Very respectfully,

C. DELANO, Commissioner.

Messrs. PIKE & JOHNSON,
Counselors at Law.

The opinion of Judge James, referred to in the letter of Commissioner Delano, is in these words:

In the matter of taxes on tobacco produced in the territory of the Cherokee nation.

SIR: I have examined the argument of Colonel Elias C. Boudinot, a citizen of the Cherokee nation, against the collection within its territory of taxes upon tobacco manufactured there, and have the honor to make the following reply:

The question, whether section 107 of the act of 20th July, 1868, intended that the revenue laws relating to tobacco and spirits produced in "the Indian country" should be extended *into* that country and there enforced, was submitted to me by yourself about the twelfth day of August last. I had the honor to advise you that, without any reference to existing treaties, it was apparent on the face of the statute itself that Congress did not intend to apply the revenue laws to the Indian country itself, but to *the articles* produced there, and that the application could be made only to such part of these manufactures as might be carried thence into the States or Territories of the United States. The action of your office was afterward taken in accordance with this advice, and instructions to that effect were sent, as I was informed, to the revenue officers of Kansas, Missouri, and Texas.

Very respectfully,

CHARLES P. JAMES,
Counselor at Law.

Hon. COLUMBUS DELANO,
Commissioner of Internal Revenue.

It appears, then, from the record, that Mr. Boudinot not only was anxious to obtain, but actually *did* obtain the official sanction of Commissioner Rollins and Delano, with respect to his said manufacturing business. And there is no allegation whatever that Mr. Boudinot has not scrupulously complied with the instructions and interpretations of the Commissioners of Internal Revenue in the actual management of his business in the Territory. The seizure of Mr. Boudinot's factory occurred on the 20th of December, 1869. It was more than a month afterward before Commissioner Delano officially or otherwise incorporated the Indian country into any collection district.

It is now stated by the Commissioner that he has reversed his former decision, before quoted, and the decisions of his predecessor, and holds, at present, that the 107th section of the act of July 20, 1868, intended the extension of the revenue laws over the *Cherokee territory*, and not alone over the "*articles produced*" there; but it is admitted that no notice was given to Mr. Boudinot of any change in the opinion of the Commissioner, and that his property was seized, and his person arrested, as though he had willfully violated the law; and it is also admitted by Judge James, who represented Mr. Delano before your committee, that the reversal of the repeated decisions of the Commissioners of Internal Revenue was never officially promulgated until after the seizure of Colonel Boudinot's property, and after his personal arrest. The order was issued under date of January 25, 1870. It reads as follows:

TREASURY DEPARTMENT,
OFFICE INTERNAL REVENUE,
Washington, January 25, 1870.

Whereas it is provided by section 107 of "an act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868, "that the internal revenue laws imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars, shall be held and construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be within a collection district or not;" and whereas it is further provided by section 103 of the same act, "that when any tax is imposed, and the mode or time of assessment or collection is not provided for, the same shall be established by regulation of the Commissioner of Internal Revenue; and the Commissioner is authorized to make all such regulations, not otherwise provided for, as may become necessary by reason of any change of law in relation to internal revenue made by this act;" and whereas neither the mode nor time of assessment or collection of the taxes imposed and extended by the provisions of said section 107 to distilled spirits, fermented liquors, tobacco, snuff, and cigars, produced within the country lying west of the States of Arkansas and Missouri, and known as the Indian Territory or country, has been provided for, except as in said section 103:

Now, therefore, by virtue of the power and authority given to me, as Commissioner of Internal Revenue, by said section 103, Thomas J. Hunt is hereby appointed, with

full authority to exercise all the powers vested by the internal revenue laws in assessors; and Robert W. Wishard is hereby appointed, with full authority to exercise all the powers vested by said laws in collectors, respectively, within so much of the said country known as the Indian Territory or country as constitutes a part of the western judicial district of Arkansas, for the purpose of the assessment and collection, respectively, of the taxes imposed and extended by said section 107, as above recited. And they are hereby directed and instructed to pursue, respectively, in the assessment and collection of said taxes the same mode and practice which are prescribed by law and regulations in like cases arising in collection districts, and to make the same reports and return the same accounts which are required in such like cases by law and regulations.

C. DELANO,
Commissioner of Internal Revenue.

It follows, therefore, that the opinions of Mr. Rollins and Mr. Delano, heretofore set forth, were the only recorded evidence of the views of those officials with reference to the right of Mr. Boudinot to manufacture tobacco and sell the same in the Indian country without paying tax to the United States. It further appears that Mr. Boudinot appealed from the last verbal decision of Commissioner Delano, and petitioned the Secretary of the Treasury to submit the legal questions involved to the Attorney General. The letter of Mr. Boudinot to the Secretary of the Treasury is herewith submitted:

WASHINGTON, D. C., *January 26, 1870.*

SIR: As a citizen of the Cherokee nation, born a Cherokee, and resident in the Cherokee country, and as personally and gravely interested in the question, I appeal to you from the decision and action of the Commissioner of Internal Revenue, in respect to the collection within the Cherokee country of the tax upon tobacco manufactured there by me, and respectfully request your consideration of and judgment upon these questions:

1. Whether, under the tenth article of the treaty of 19th July, 1866, a Cherokee Indian manufacturing tobacco within the Cherokee country can, under the pretense that section 107 of the act of 1868, imposing taxes on distilled spirits, tobacco, &c., applies to the Indian country, be compelled to pay any tax to the United States on other or more of the tobacco manufactured by him than he may sell beyond the limits of the Indian Territory.

2. Whether, as to such tobacco, so manufactured in the Cherokee country by him, a Cherokee Indian is punishable for not observing the provisions of the revenue laws, when he takes none at all outside of the Indian Territory, or when he pays the taxes required on all that he does carry beyond those limits.

3. Whether a Cherokee Indian, residing in the Cherokee country, is liable to pay the tax on tobacco manufactured by him, which was grown in a State and purchased by him, when manufactured and sold by him in the Cherokee nation and not elsewhere, and for use and consumption in the Indian country.

A more full statement of the case and its circumstances in which these questions arise, and referring to some charges which may seem to you to deserve to be inquired into, accompanies this letter. I most respectfully invite your attention to it, and have the honor to request that the foregoing questions, being of the utmost gravity and importance, may be submitted to the Attorney General for his decision, with the arguments herewith presented.

With the utmost respect, your obedient servant,

ELIAS C. BOUDINOT.

HON. GEORGE S. BOUTWELL.

The answer of the Secretary was as follows:

TREASURY DEPARTMENT, *January 28, 1870.*

SIR: I have the honor to acknowledge the receipt of your letter of the 28th instant, covering an appeal by Elias C. Boudinot, from the decision and action of the Commissioner of Internal Revenue, in respect to the collection within the Cherokee country of taxes upon tobacco manufactured by him. In reply I have to say, that the action taken by Mr. Delano in the matter was after consultation with me, and that I fully concur in the opinion which he has given.

Very respectfully,

GEO. S. BOUTWELL,
Secretary.

HON. ALEX'R McDONALD,
U. S. Senate.

Thus failing in his attempt to get his case referred to the Attorney General, Mr. Boudinot announced that he was an escaped prisoner, and with the certified copy of the proceedings before the United States commissioner of the western district of Arkansas in his hands, showing that he had not given the required bail, but was committed to the custody of the marshal, he sought to be arrested in this city, that he might test the legal merits of his case by *habeas corpus*. Yet, though the officer of internal revenue who had first procured his arrest, and knew the facts, was in Washington, he refused to have the arrest made.

Disappointed in getting his case before the Attorney General or before the courts, Mr. Boudinot represented to Mr. Delano that he had a large amount of unmanufactured material on hand, which was in imminent danger of being wasted and ruined, and made the following proposition in writing:

WASHINGTON, D. C., *January 26, 1870.*

SIR: The undersigned, a Cherokee Indian, is the proprietor of a tobacco factory in the Cherokee nation, recently seized by order of the supervisor for the district of Arkansas.

Being desirous of resuming his business, the undersigned proposes the following compromise:

1. He will conform strictly hereafter, until relieved therefrom by competent authority, with all the regulations respecting collection of tax on tobacco in the United States.

2. He will pay the government the revenue tax on all tobacco he has hitherto sold unstamped, whenever the courts shall determine that such tax is due.

ELIAS C. BOUDINOT.

HON. COMMISSIONER OF INTERNAL REVENUE.

This proposition to waive for the present what Mr. Boudinot conceived to be his rights under the treaty, the law, and the repeated decisions of the Revenue Bureau, was refused, as will appear from the following:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, February 9, 1870.

SIR: I have considered the proposition of E. C. Boudinot, presented through you, to compromise his liabilities to the United States for having manufactured and sold tobacco in violation of all the requirements of the act of July 20, 1868, relating thereto, and declined to accept it.

I shall be obliged to you if you will inform Mr. Boudinot of this result of his proposition, or give me his address that I may so advise him.

Very respectfully,

C. DELANO,
Commissioner.

HON. A. McDONALD,
United States Senator

As a last resort Mr. Boudinot appeals to Congress for redress; the record shows that he has been frank and open-handed in all his deportment in relation to this matter; but, while his conduct in the premises has been such as to command respect and sympathy, the whole question is one of law, and must be judged as such, without reference to extraneous matters. What is the law?

The tenth article of the Cherokee treaty of 1866 certainly gives Mr. Boudinot a right, as a Cherokee "resident in the Cherokee nation," to ship his manufactured products anywhere in the Indian Territory "without restraint," and requires him to pay tax thereon only on such portions thereof as he may carry beyond the limits of the Indian Territory.

We do not feel called upon to give an opinion as to whether an act of Congress passed subsequent to a treaty, and in conflict with it, will ab-

rogate the treaty; for we do not consider that such question enters into the present case at all.

It is now contended by Commissioner Delano that the one hundred and seventh section of the act of July 20, 1868, gives the United States revenue jurisdiction over the *territory* of the Cherokees and Indian country; but there seems to be nothing in the act that warrants this construction. The decisions of Mr. Rollins and Mr. Delano set out in this report appear to rest upon clear legal ground, and to give the true construction; and it is evident from the terms of the one hundred and seventh section that Congress did not intend to assert revenue jurisdiction over the *territory*, but only over the articles that might be produced and manufactured there, and that tax upon the same could only be imposed and collected *when* such articles were taken *beyond* the limits of the Indian Territory for sale.

In all cases of ambiguity of language in Indian treaties it has been the custom of the government and the decisions of the courts to give such construction thereto as would be most favorable to the Indians. The same rule should, for much stronger reason, apply to the interpretation of acts of Congress, where such acts tend in any respect to work a hardship upon the Indians, or to change the established policy of the government toward them.

Chief Justice Marshall, in 6 Peters, 582, uses this language: "The language used in treaties with the Indians shall never be construed to their prejudice, if words be made use of which are susceptible of a more extended meaning than their plain import as connected with the tenor of their treaty." (See also the case of the Kansas Indians, 5 Wallace, R. 737.)

In addition to these judicial decisions it seems eminently just, upon principle, and to be required by the uniform policy of the government, that the treaty stipulations with Indian tribes should be so construed as to give liberal effect to their intent and objects in favor of the Indians, and that no law of Congress should be permitted to reverse this policy, even where it is competent by law to do so, unless its terms be so clear and explicit as to admit of no other or more favorable construction.

The terms of the tenth article of the treaty in this case are very clear and free from ambiguity. They do not appear to forbid an Indian to purchase out of the Territory, in good faith, materials to be changed or manufactured by him in the Territory and there sold. Of course, it would not protect persons who, in any business they might conduct in the Territory, should attempt to do so in bad faith, or to evade revenue or other laws; but no such questions arise in this matter. Colonel Boudinot, although he admits he purchased some of his leaf tobacco out of the Territory, is not charged with having done so for any improper purpose. To construe the treaty to forbid any such purchase would unjustly limit the range of industry and production by the Indians in the Territory.

It is not necessary in this case to consider the power of Congress by law to repeal or annul a treaty with an Indian tribe. It will be conceded that such a power ought only to be exercised, if it exist, in the clearest cases of right and necessity. It is only demanded here that the law of Congress of July 20, 1868, be construed. There is nothing in its terms to disclose any clear intent on the part of Congress to annul the treaty. They can well stand together. They are not inconsistent. The original constructions put upon the law by the Commissioners, as stated, fully and fairly reconcile them. Those constructions do not in-

vite or lead to frauds upon the revenue. If any frauds should be attempted they can be readily detected and defeated. Besides, the laws extended over the whole Territory by the Commissioner are highly penal in their character, and cannot fail to lead to much embarrassment to legitimate business and enterprise, and much discontent.

CHEROKEE NEUTRAL LANDS OF KANSAS.

[To accompany bill H. R. No. 1074.]

APRIL 1, 1870.—Ordered to be printed, and recommitted to the Committee on Indian Affairs.

Mr. CLARKE, from the Committee on Indian Affairs, made the following

REPORT OF ARGUMENTS.

ARGUMENT OF JAMES F. JOY, ESQ.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: The interests involved in this matter, and the many misrepresentations that have been made about it, have induced me to appear before this committee; because, whatever may be our rights, we do not wish to be misrepresented, and we do not wish to be charged with crimes—for that is what we are charged with—which we have never intended or designed to commit.

I will give a short history of my connection with these Cherokee neutral lands. I am engaged, as some of you know, as the agent of gentlemen in the eastern section of the Union, who are engaged in building railroads in the West. I commenced with them in Michigan, and in the progress of events these operations extended till they reached Illinois, and Missouri, and Kansas City. At that point it was my design to stop and never proceed any further. Having succeeded in bridging the Missouri, and completing roads so that we could reach the road in Kansas, it was my design to stop. But when we reached that point there were other interests found beyond, and I was importuned, on behalf of gentlemen in Kansas, to take up the Border Tier road in Kansas, which runs through the neutral lands, and thence down through the Indian country, so as to make a great route for an outlet for the productions of the country to the Gulf. Kansas is some eight hundred miles nearer the tide-waters by this route to the Gulf than in any other direction, and the interest of that section requires this outlet. My friends importuned me to take up that road and build it. It was the natural direction for a road; and although it was not my purpose to take it up, yet in the progress of the discussion, and in portraying the advantages from building it, they brought to my mind this tract of land called the neutral lands. It is fifty miles long and twenty-five miles wide. It was represented to me, and by some gentlemen now on this committee, that there were few settlers there; that it was almost entirely destitute of population, but a good country; and that there might be a sufficient inducement for capitalists to take hold of it, because the lands might be of such value that they would make it best to build the road. They thought they would, however, build the road if they could get the lands; and they thought that if I would allow them

to use my name in a proposition for that land to the department at Washington, they could purchase it.

I said to them, after great hesitation, they might do so; and Colonel Coates, of Kansas City, the president of that railway company, visited Washington during the last administration and made a proposition to Mr. Browning to purchase this land. That was in the month of June, 1867, I think. Mr. Browning said to him, "I will not accept the proposition now, but I will publish an informal notice in the newspapers that they are still in the market, as, on account of some informality in the treaty, the former contract was declared invalid." He said that propositions would be received for them until the 1st of October following; and then he said, "If you come to Washington and make a proposition that I think I can accept, I will do it." Mr. Coates went home, and he made a proposition for the lands in my name, and Mr. Browning accepted that proposition. An informal contract was prepared. I did not then intend to have these lands, nor to take up this road; but the parties were exceedingly anxious to have the road, and I so far permitted them to use my name.

In the mean time these lands had been sold to what was called the American Emigrant Company. When the contract was made with me in behalf of this railroad company, that emigrant company rose into life and published all over the world that they owned these lands, and they should contest the sale.

I wrote immediately to Mr. Browning, stating the nature of the contest, which I did not want to be involved in, and requesting him to cancel the contract with me. I had never dreamed of any controversy with the settlers in these lands. Mr. Browning wrote back that he thought he had done the best thing for the Indians, as they would lose the lands if they were not sold, and he held me to the contract; and the result was a controversy between the Emigrant Company and myself.

My contract was with the department, and they were made powerless by the Emigrant Company disregarding their title. Nothing could be done. So it remained till June, 1868, when the Emigrant Company, some of them, came to me and requested that a compromise should be made, and that we should pay them something. I declined squarely. I said there was no money made out of it, and if there was to be a controversy we were not to be involved in it. This led to a good deal of discussion and negotiation. The contract made in my name was for cash, and money was worth eight or ten per cent. Their scrip was taken at five per cent. annually. They sent to me a proposition and said, you can afford to pay something as the difference between your contract and ours. If you take our contract and have it sanctioned by the Cherokees, there is the difference between seven and five per cent. Figure that out, and we will go to the Cherokees and have a new treaty; and if the government sanctions it we will have the lands transferred to you. In the position in which we were it was for my interest to have it accepted; and after considering the question, and consultation with my friends in Boston and New York, I concluded to accept the proposition. They came here and consulted with the Cherokee delegation. They were glad to have the difficulty settled, so that they could receive the interest for their money; and the result was a new treaty, embodied in this document. [A printed document was presented for examination of the committee.]

That treaty recites the dispute and that it was for the interest of all parties that this controversy should be settled; that the Cherokees desired it; that it was better for them; that the government desired it and

that we desired it. Therefore the Senate ratified that treaty, sanctioning the assignment of their contract to me, confirming that contract and making it valid; providing how the payments should be made, and stating that the new contract carried out the terms of the old contract, and that when done the transaction should be consummated. Upon the ratification of that treaty I took the responsibility of going to the department and closing the contract.

Having done that, I undertook to raise the money to build the road. We have raised the money and built about one hundred and twenty-five miles of the road, running down through that country, to give value to the land, for which I would not give anything like the amount of the cost of the road, without the road being there. By the 1st of May next it will be done to the Indian country, ready for use.

That is the position, and that is the way precisely in which I became involved in this controversy.

Much to my amazement I found many settlers were on the land at the time the treaty was made. More were going on all the time, and the result has been very considerable difficulty with the settlers on these lands. Now the question is, who is right and who is wrong, and what shall be done?

In order to ascertain that, it will be necessary for me to refer you to the treaties and the legislation of Congress upon this subject; and for convenience I will read that from a little pamphlet which has been prepared, setting forth the facts in this case. This is an old controversy, and the treaties under which these rights have accrued are of many years' standing.

Some of you will remember when the Cherokees were driven out of Georgia in 1835, and at other times, and the difficulties which arose under General Jackson's administration. It was in his administration that they finally acquired the title to these lands. The treaty is this:

* But in December, 1835, another treaty was made, and which is found in the same volume of the Statutes, page 478, providing for a cession of the Cherokee possessions in Georgia. Article 1 of this treaty provides as follows:

"The Cherokee nation hereby cede, relinquish, and convey to the United States all the lands owned, claimed, or possessed by them east of the Mississippi River, and hereby release all their claims upon the United States for spoliations of every kind, for and in consideration of the sum of five millions, to be expended, paid, and invested in the manner stipulated and agreed upon in the following articles."

Article 2 recites that whereas, by the said treaty of May 6, 1828, and the supplementary treaty thereto of February 14, 1833, with the Cherokees west of the Mississippi, the United States guaranteed and secured to be conveyed by patent to the Cherokee nation of Indians the following tract of country, (stating the description of the lands as in the former treaties,) and containing the following clause, to wit: "And whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation, on their removal west of the Mississippi, the United States, in consideration of the sum of five hundred thousand dollars therefor, hereby covenant and agree to convey to the said Indians and their descendants, *by patent in fee simple*, the following additional tract of land, situated between the west line of the State of Missouri and the Osage reservations, beginning at the southeast corner of the same, and running north along the east line of the Osage lands fifty miles to the northeast corner thereof, and thence east to the west line of the State of Missouri, thence with the said line south fifty miles, thence west to the place of beginning; estimated to contain eight hundred thousand acres."

That is the contract which the gentlemen living upon this land are making this controversy about. You will observe that it is for the consideration of \$500,000, and that it is a sale, and that a patent is to be given to the Indians and their posterity forever, in fee simple, absolutely.

The next year after that treaty was made, Congress passed an act to carry it into effect. The act is found on page 73, volume 5, of the Stat-

utes. I will state that there had been an act passed, which is found in the fourth volume of the Statutes, page 791, before this treaty was made, appropriating money to be given to Georgia to settle the treaty. The State of Georgia, in violation of this treaty, had extended their State laws over the Cherokee country, and had imprisoned a missionary, Mr. Worcester, who was in Georgia, connected with the Cherokees, upon the ground that he was exciting them as against the State—an incendiary. He was in prison perhaps when this treaty was passed. The whole country wanted the matter settled. After the treaty was made this act was passed; among other things containing this clause:

For the amount stipulated to be paid for the lands ceded in the first article of the treaty with the Cherokees of the 29th of December, 1835, deducting the cost of the land to be provided for them west of the Mississippi, under the second article of said treaty, \$4,500,000.

You will remember that the treaty provided that they should have \$5,000,000 for their possessions in Georgia. They were apprehensive that the lands in the western country were not large enough for the whole tribe. They therefore made a contract with the government for these eight hundred thousand additional acres, for \$500,000; and when Congress came to make the appropriation they deducted this \$500,000. Therefore the Cherokees paid \$500,000 in money and received a patent in fee simple for the land. That is now nearly forty years ago; and from that time to the present they have been the owners of that land. From that time up to the time of the Kansas troubles government always protected them according to the treaties which bind the government in the most solemn way.

I will read from the treaty:

The treaty of 1828 (page 311 of the Statutes at Large, vol. 7) begins by this recitation: "Whereas, it being the anxious desire of the government of the United States to secure to the Cherokee nation of Indians a permanent home, and which shall, under the most solemn guarantee of the United States, be and remain theirs forever—a home that shall never in all future time be embarrassed by having extended around it lines, or placed over it the jurisdiction of a State or Territory, nor be pressed upon by the extension over it in any way of the limits of any existing State or Territory—the parties hereto do conclude the following articles, viz:

* * * * *

"ARTICLE 2. The United States agrees to possess the Cherokees, and to guarantee it to them forever, and that guarantee is hereby solemnly pledged, seven million of acres of lands, to be bounded as follows:" (The boundary then follows; not necessary to insert here.) The article then goes on as follows: "In addition to the seven millions of acres thus provided for and bounded, the United States further guarantees to the Cherokees a perpetual outlet west, and free and unmolested use of all the country lying west of the western boundary of the above-described limits."

By article three of the treaty, the United States agrees to remove all white persons, and all others not acceptable to the Cherokees, from said tract of land.

"ARTICLE 7. The chiefs and head-men of the Cherokee nation aforesaid, for and in consideration of the stipulation and agreements, do hereby agree, in the name and in behalf of their nation, to give up and surrender to the United States, and to leave the same within fourteen months, all the lands they are entitled to in Arkansas, and which were secured to them by the treaty of January 8, 1817, and the convention of the 27th of February, 1819."

Article 8 recites that the Cherokee nation west of the Mississippi, having by this agreement secured themselves from the harassing and ruinous effects consequent upon a location amidst a white population, and secured to themselves and their posterity, under the solemn sanction of the guarantee of the United States, as contained in this agreement, a large extent of unembarrassed country, &c.

These were the prior treaties, under which a portion of the nation was removed to the west. The subsequent treaty of 1835 alludes to that treaty, adopts it, and in addition to the land conveyed under it is conveyed this tract of eight hundred thousand acres, not as a gift, but as a sale for \$500,000; and with the sale guarantees the protection of the Cherokees in it; never to allow any Territory to be established here nor

any State; nor any white men to intrude into it; nor were they to be molested in any way by white men. And up to the time of the Kansas troubles no white men were permitted to enter unless they became Indians by marriage. And the government kept troops there to keep settlers off. As many as two or three times they put off men who had intruded, and burnt up their buildings, so as to keep the country free from the intrusion of the whites. When the Kansas troubles came on, and when the war broke out, government was too much engaged in other directions to be able to keep off the settlers. Settlers therefore entered, and the consequence was the desire of the Cherokees to sell; and in consequence of that was the treaty of 1866, the provisions of which I will read. The Cherokees saw what I did not see: that there was to be a conflict with the settlers there; they knew how Indians are treated when settlers came upon their lands; and hence their desire to sell the lands and realize the money for them. In consequence of that desire this treaty of 1866 was made. Article 17 of that treaty provides thus:

The Cherokee nation hereby cedes *in trust* to the United States the tract of land in the State of Kansas which was sold to the Cherokees under the provisions of the second article of the treaty of 1835; also that strip of land ceded to the nation by the fourth article of said treaty which is included in the State of Kansas, and the Cherokees consent that said lands may be included in the limits and jurisdiction of said State. It provides, further, that the said lands shall be surveyed as the public lands of the United States are surveyed, and shall be appraised by two disinterested persons, one to be chosen by the Cherokee national council and one by the Secretary of the Interior, and the appraisal not to be less than an average of one dollar and a quarter per acre. It provided further, that the Secretary of the Interior might advertise from time to time for sealed proposals, and sell to the highest bidder, for cash, the said land, in parcels which should not exceed one hundred and sixty acres each. "Provided, however, that nothing therein contained should prevent the Secretary of the Interior from selling the whole of said lands, not occupied by actual settlers at the date of the ratification of the treaty, not exceeding one hundred and sixty acres to each person entitled to pre-emption under the pre-emption laws of the United States, in a body, to a responsible party, for cash, for a sum not less than one dollar per acre."

You will see how the convenience of everybody was provided for; the government, by right, was bound to keep off the settlers by force. But when the Indians manifested a willingness to sell, the government not being willing to buy, the government provided in a treaty that the lands might be sold by the Secretary of the Interior, saving the rights of everybody by having them sold, not at the government price, but at their actually appraised value. The Indians said, "We bought that land, and paid for it with money; we are entitled to what it is worth; therefore, it should be appraised, and we will appoint one, and you the other." These were the terms. The lands, amounting to forty or fifty thousand acres, were appraised at about an average of \$2 50 an acre. Taking out these lands, and protecting everybody who had made improvements there, government authorized the Secretary of the Interior to sell the balance at not less than one dollar an acre.

It was under that treaty that my proposition was made, as I have stated here. You will see that the government protected the Indians and how generous they were to the settlers. They gave the Indians the actual value of the land by appraisal, and secured the settlers on land on which they had made improvements by paying for it, recognizing the force of the treaty. I have referred to both the legislation and the treaty. The question is, whose are these lands? Can there be any doubt that they belonged to the Cherokees, and that they had the fee simple and were entitled to sell; and, as the government refused to purchase, had a right to sell to others. Why did government refuse? Because they would have to pay some two dollars an acre, and if they

bought at that price they would have to give them away under the pre-emption laws. Therefore they refused to buy. This very railway company came here and worked a whole winter to get the government to buy the lands and give away half, selling the remainder at \$2 50 an acre. The bills will be found in the archives of the Senate now. Government said, No, we are not going to buy the lands and give them away. The Indians may sell them if they can find a purchaser. I was unfortunate enough to become the purchaser.

Having become involved in this matter in this way, and finding it necessary to raise the money to build the road, in order to save myself, if I can do it at all, this land and the road were included in an ordinary railway mortgage to secure such bonds as might be issued to be sold for the construction of the road, with a provision in the mortgage that whenever the land should be sold the trustees should realize that. Thus we could raise money on the credit of the land for the purpose of building the road. Bonds to the amount of \$5,000,000 are scattered all over the United States, bought by gentlemen who knew the lands, and knowing the right and title. They have invested their money, and in that way I have succeeded in raising the money for building the road. So that we have not only the most solemn guarantee which the government could give, but we have conveyed a title by mortgage to secure a portion of the money which goes into the construction to build the road and make the lands valuable.

I assume that no lawyer can, for a moment, question the title to the lands. The fee simple, beyond all manner of doubt, was in the Cherokees for nearly forty years. They sold with the consent of the government—sold under a treaty made by government. The government become the guarantor of the title, and are bound to protect it by every principle of honor and good faith, instead of impugning it.

Now, what does this bill propose to do?

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the treaty between the United States and the Cherokee Indians proclaimed August eleven, eighteen hundred and sixty-six, and of the supplemental treaty proclaimed June ten, eighteen hundred and sixty-eight, as attempted to authorize any sale or disposal of any part or parcel of the tract of land known as the Cherokee neutral land, in the State of Kansas; and all sales, conveyances, or transfers made, and all patents issued under authority assumed to be given by said treaties, and attempting to divest the United States of title to said tract or any part of it, be, and the same are hereby, declared null and void; and that all persons who have paid, or shall pay, any money to any officer of the United States in pursuance of any of said assumed sales, conveyances, or transfers, shall be entitled to receive back the amount so paid.

SEC. 2. *And be it further enacted,* That all bona fide claimants on said tract under the nineteenth article of the treaty proclaimed August eleventh, eighteen hundred and sixty-six, shall receive patents for the amount of land therein stipulated, according to the conditions of the nineteenth article of said treaty.

SEC. 3. *And be it further enacted,* That any person being the head of a family, or a widow, or a single man or woman, who shall be over the age of twenty-one years at the time fixed by this act for making payment therefor, and being a citizen of the United States, or having filed his declaration of intention to become a citizen, as required by the naturalization laws, or who has served not less than fourteen days in the army or navy of the United States during actual war, and who has made, or shall hereafter make, a settlement in person, and in accordance with the provisions of this act, or any part of said tract, and inhabit and improve the same, and who has erected, or shall erect, a dwelling thereon, shall be entitled to purchase from the United States, and to receive a patent in fee simple therefor, any number of acres of land by legal subdivisions, not to exceed one quarter section as by the government surveys, at the rate of one dollar and twenty-five cents per acre, to be paid within two years after the passage of this act. And that, after deducting from the money so received for the land the expense of carrying into effect the provisions of this act, the balance shall be paid over to the Cherokee Indians.

SEC. 4. *And be it further enacted,* That when any person shall, before the passage of

this act, have made settlement, as hereinbefore provided, on the sixteenth or thirty-sixth sections of any township of said tract, he or she shall be entitled to purchase the same as aforesaid, and other lands as contiguous thereto as may be, and contained in the said tract, shall be given instead thereof to the State of Kansas for school purposes; and all of said Cherokee neutral lands not occupied by actual settlers at the date of the passage of this act shall be subject to selection under this section; and the county superintendant of common schools for any county in which said sixteenth and thirty-sixth sections so occupied may be, and are hereby, empowered to ascertain how much of said tract within his county included in the said sections is so occupied, and to make selections of other lands in the same county instead thereof, as soon as practicable after the passage of this act.

SEC. 5. *And be it further enacted*, That in all cases of contested claims arising under this act, the right shall be in him or her who made the first settlement: *Provided*, That such persons shall conform to the other provisions of this act: *And provided further*, That rights of claimants to town sites shall be subject to such laws of the United States, and of the State of Kansas, in regard to town sites as are now in force, and not inconsistent with the provisions of this act.

SEC. 6. *And be it further enacted*, That nothing in this act shall operate to deprive any person of any rights that he or she has acquired, or may acquire, under the homestead act of May twenty-eight, eighteen hundred and sixty-two, or any act amendatory thereto.

You will observe that that bill assumes that the title to the lands is in the United States; assumes that the ancient treaties with the Cherokees are void; that the recent treaties are void; assumes that the conveyances to me are void; cuts through all the securities which the railroad company has given to obtain the money; makes valueless every dollar issued as security upon the land. And we have dealt with the United States in good faith, not only under these treaties, but under the law; have been invited by them to build this road; have been seduced to build this road, and now this very government is asked to declare every transaction utterly null and void, and the security we have given wholly worthless. This is the way we are treated, if this bill passes.

In the same year 1866 the government passed a land grant bill to this very company, containing provisions of this sort. It was to assist in building a road through Kansas City, down through this tier of counties, through the Indian country to Preston, in Texas, and thence down to Galveston, so as to form a continuous line.

Influenced by these considerations a law was passed, some of the provisions of which I will state:

By an act of Congress, approved July 25, 1866, granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley Railroad and its extension to the Red River, not only certain grants of land were made for these purposes, but certain other powers were granted to the railroad company to enable it to accomplish the purpose the government had in view in passing the act. Section 8 provides that the Kansas and Neosho Valley Railroad Company, its successors and assigns, is hereby authorized and empowered to extend and construct its railroad from the southern boundary of Kansas, south, through the Indian Territory, to Red River at or near Preston, in the State of Texas, so as to connect with the railway now being constructed from Galveston to a point at or near Preston, &c.

Section 9 grants lands through the Indian Territory to aid in said construction, whenever the title shall be extinguished, equivalent to the grant contained in the first section of the act, or every odd section for twenty miles on each side of said road.

There is an agreement by the government providing that, after extinguishing the title down through the Indian country, they will give to this railroad company every odd section of land in the Territory, for a distance of twenty miles on each side of said road.

Section 10 provides that the said Kansas and Neosho Valley Railroad Company shall have the right to negotiate with, and acquire from, any Indian nation or tribe authorized by the United States to dispose of lands for railroad purposes, and from any other nation or tribe of Indians through whose lands the said road may pass, subject to the approval of the President of the United States, &c.

This does not require a treaty nor the sanction of the Senate, the object being to secure a road from Kansas City to the Gulf. That author-

ized this company to go and buy this land of the Indians, without a treaty, with the assent of the President of the United States alone. Instead of buying them with the assent of the Senate alone, we buy them with the assent of the Senate and the President of the United States both. The Senate confirmed the treaty authorizing the land to be sold to us, and the President twice proclaimed it with his approval.

Now, what is the position of this government toward this company? They have authorized the sale of the lands to us, have tempted us into this thing, have given every guarantee of law which it was possible for Congress to give, have seduced us to put our money into this road; and now this bill asks you to turn about and repudiate every arrangement made, every treaty made, every act of Congress authorizing these treaties; repudiating these treaties and compelling us to become bankrupt, and defraud the public of millions of money which have been put into the road under these arrangements.

Now, I have no fear of such an act passing. I have no fear that this committee will recommend such an act. I do not believe that this government are going to treat men who deal with them in that manner. I do not believe the government can afford to have it proclaimed to the world that no arrangement under any treaty—no arrangement under any law can stand, if squatters or intruders shall see fit to go upon the land and say they have some rights, and they demand by their vote and their voices that Congress shall turn back on all its legislation for fifty years and declare all treaties and acts for fifty years void. It seems to me that the capital of the country has a right to place faith in the government; and when the government induces its citizens to place faith in it, they have a right to ask that the ordinary protection should be given them.

Now, what does the bill propose to have Congress do? To act as legislators? No, but as judges. They want you to decide that all these acts and legislation are void. They want you to act, not only as judges, but as executioners; for that will be the result. Pass a bill of that sort, and embarrass this great company, and destroy its credit, and before the Supreme Court of the United States can review this action this enterprise will be destroyed, and these securities will be sold in the market for twenty cents on the dollar.

I do not wish to take up the time of the committee further, but I will allude to the history of the country in connection with these Indian treaties. It is sufficient to say, on the question of making treaties, that these things have been before the Supreme Court; that you have a volume all made up of Indian treaties, which have been going on since the country was made up of colonies. Long before we ceased to be colonies even, treaties were made with the Cherokees. The first treaty made by Washington was made with the Cherokee Indians. This government has recognized the Indians as political communities, has dealt with them as powers, and whatever the government recognizes as a power, as a political community, the courts are bound to recognize. These treaties, therefore, must be valid. Whenever a treaty has come before the United States courts, the courts have uniformly said they have nothing to do with it, because it is a political matter. Lands have been disposed of by treaties and with individuals. Almost universally reservations are made to some of the tribe, or some friends of the tribe. When the reservation is bestowed upon individuals, the courts have held that the act was binding, because the government treated with them as with a nation.

[Citations were here made to cases; for which see brief, appended marked A.]

Now, I have no complaint to make of the government. The government has done its full duty by us. But I will not conceal from you that there has been a sort of civil war there by which we have been attempted to be driven out. When our engineers went there to survey the road they were met by an armed force and seized as prisoners. Their wagons, instruments, and tents were burnt. That has been done once or twice. They have maintained a military organization there, by which at any time a body of men can be sent to do any act of violence. Government ordered a body of troops there to enable us to go on and build the road, and they have been there for some time; and since they have been there it has been as quiet as possible.

The committee sent by the Kansas legislature is sent to inquire whether it is necessary to maintain these troops there or not. It has nothing, and can have nothing, to do with the titles. Men who have been suspected of wishing to aid in maintaining our title have been driven off. They have had to flee to save their lives, because they were friendly to us and the railroad. In fact there is an organized attempt not only to resist us, but to resist the government, and to prevent the great object for which the railroad company was organized.

It has been our desire always to treat the settlers with the utmost liberality. The first thing I did, when it became apparent that I must raise the money to build the road, was to conciliate the feelings of every settler. I published to the country that we would build a road complete to the south part of the State, and through the middle of it, and would sell to every settler on the lands, at the time we took possession, in June, 1868, at prices which should not exceed five dollars an acre, no matter where situated, and running down to two dollars an acre, depending on the situation. That was a standing rule, and so much faith was placed in that proposition that nine hundred persons came in and took their contracts. And so much confidence does the rest of the world have in these claims, that they have been subject to sale, and some have sold for as much as two thousand dollars over what they cost.

But I told them we could not afford to build the road and then sell the rest of the land for the same price; and that those who came after the time named, June, 1868, would have to pay what the land was worth at the time they took it. New settlers may now come and have the land for what it is worth; and they have been notified that they need pay only seven per cent. interest.

There are parties there who are turbulent, as there always are on the frontier; and it is these parties who are making trouble here.

Mr. Joy then, in answer to questions from different members of the committee, explained some of the statements already made.

WASHINGTON, D. C., *February 18, 1870.*

A.

First. The history of this title, treaties, &c.

Second. Congressional sanction (4 Statutes, 791; 5 Statutes, 73.)

The questions which arise upon it under the bill. First, the bill assumes to judge as to the title, a power which belongs to courts.

Third. The law relative to Indians and treaties with them, where they have the right of occupancy only, and the government hold the fee. (9 Peters, 748; 6 Peters, 557, 558; 5 Peters, 1; 10 Howard, 460; 23 Howard, 457; 4 McLean, 418.) This results of necessity from the recognition of them as an independent nation, (5 Wallace 752.)

Fourth. Treaty of 1866 and negotiations under it, and the treaty of 1868 and contract. By treaty was the only way the Indians could sell until lately, (Vol. 4, Statutes, 730.) Act of Congress granting land to railroad.

Close up with alluding to the state of the country ; propositions to settlers ; importance of quiet ; the interests involved and the wretchedness of this agitation, and demand that Congress repair the mischief.

ARGUMENT OF W. R. LAUGHLIN, ESQ.

As the accredited delegate from the organization originally known as the "Cherokee Neutral Land League," afterward changed to the "Neutral Land Home Protection Corps," and also informally, but actually, representing as I do a very large number of settlers not members of that organization, I present the following

PETITION OF THE SETTLERS ON THE NEUTRAL LANDS.

We, the undersigned, residents on the "Cherokee Neutral Lands," in the State of Kansas, would respectfully represent that the settlement of these lands has been made under assurances from President Buchanan before the war, and President Johnson since the war, that the Indian title would be extinguished by the United States, and that we would get titles to our homes from the government under the laws of Congress ; that our own senators have always written to us in such a manner as to encourage the settlement of this country, and to assure us of titles from the government at government rates ; that the Cherokees have ever since the war earnestly encouraged settlers to locate here, and that the general government has exercised complete jurisdiction here ever since the war ; and the State of Kansas since the treaty with the Cherokees, of August 11, 1866. And further, that there are now about thirty-five hundred families who have located here, expecting to make permanent homes for themselves ; that most of us have expended all of our means in necessary expenses for living, and in improving our claims ; that two-thirds of us have been soldiers in the Union army ; that our settlement of the neutral land has been made under unusual difficulties, which we have borne, trusting the government to protect us in the rights accorded to settlers of the new parts of our country by the pre-emption and homestead laws.

And further, that the title to this tract has never in any instance passed from the United States by any act of Congress.

We therefore, respectfully petition the Congress of the United States to declare by law that all assumed sales or conveyances of this tract purporting to have been made by virtue of any treaty or treaties are null and void, and to declare the "Cherokee neutral land" public lands of the United States, to be open to settlement under the pre-emption and homestead laws.

The petition suggests two questions :

1st. Ought the thing asked for to be done ?

2d. Can it be done ?

The first question is one of justice and equity ; the second is one of law and of fact.

I invite the closest attention of the committee to the subject, and their most careful study of the case in all its bearings.

My quotations and citations can be looked at in the libraries ; while for everything that I shall state to be *fact* I assume the most entire responsibility, both as the delegate from those people and personally.

I shall first discuss the nature of the title *ab initio*.

The fee simple, absolute title to the soil of North America was, from the date of its discovery, recognized by the European powers as vesting in the discoverers. This was acknowledged by the different nations in their treaties with each other, and in grants made by their sovereigns to favorite subjects.

At the organization of our government, some of the States held large tracts of land mostly occupied by Indians.

The land thus held was finally surrendered to the United States, and the general government became the owner of the *fee* of *all the lands* within our exterior boundaries that was not already owned by our citizens.

Our government recognized the right of the Indian tribes to *occupy* the lands over which they wandered and hunted until such time as they saw fit to relinquish that right to the *United States*.

For character of the title of the United States and of Indian title, see Story on the Constitution, vol. 1, where both are fully discussed; also, 5 Peters, 48, where the court says: "Indians have rights of occupancy to their lands as sacred as the fee simple, absolute title of the whites, but they are only rights of occupancy, incapable of alienation, or being held by any other than common right, without permission from the government."

In 8 Wheaton, 547-571, the Indian title is asserted to be "*occupancy*," and the ultimate, absolute fee simple jurisdiction and sovereignty were in the United States, subject only to such rights of occupancy.

Chief Justice Marshall said: "They (the Cherokee Indians) occupy a territory to which we assert a title independent of their will, which must take effect, in point of possession, when their rights of possession cease. Congress has the exclusive right of pre-emption to all Indian lands lying within the Territories of the Union."

6 Peters, 580, the court says: "Their right of occupancy has never been questioned; but the fee in the soil has been considered in the government."

December 26, 1854, McClelland, Secretary of the Interior, decided that the Oneida Indians "have no right to cut timber upon the lands of the tribe," except for their own use; and says he will "enforce the laws to prevent trespasses upon public lands" if they do not desist.

Opinions of Attorneys General, vol. 8, p. 255: "Lands may be granted in fee to private persons as well before as after the extinguishment of the Indian title."

SOLE POWER OF CONGRESS OVER THE PUBLIC AND INDIAN LANDS.

Constitution of the United States, art. 4, sec. 3: "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

The Constitution itself (art. 1, sec. 1) says Congress "shall consist of a Senate and House of Representatives."

13 Peters, 436, (13 C. R., 235,) Supreme Court says: "Congress has the sole power to declare the effect and dignity of titles emanating from the United States."

13 Peters, 498, (13 C. R., 266,) Supreme Court says: "Whether a title to a tract of public lands has passed from the United States is a question depending upon statutes enacted by Congress."

15 Peters, 407, (14 C. R., 128,) "Congress has exclusive power to make and authorize appropriations of the public lands."

Opinions of Attorneys General, vol. 10, p. 359: Bates, Attorney General, (case of Rock Island military reservation,) states that the President, acting under authority of an act of Congress, had withdrawn the reservation from the body of the public lands.

Mr. Bates held that the President had no authority even to restore the reservation to the body of the public lands; but that Congress alone could place it in that condition. He says: "The appropriation of the public domain, either to public or private use, is an act of sovereign power. It is the exercise of ownership, and implies the right of control over the title. It is a conversion of the property of the nation equal in responsibility and gravity with the appropriation of the public money, and derives its authority from the same high source. Under our system

this extreme power resides only in Congress. As the Executive can draw no money from the treasury, but in consequence of appropriations made by law, so he cannot divest the title to a foot of the public lands without the same legislative sanction."

9 Peters, 759-762, the court bases its decision on "acts of Congress."

14 Peters, 525, the court said, "the power over the public lands is vested in Congress *without limitation*."

The Congress of the United States has never, in any case that I find any account of, acknowledged a fee-simple title to vest in a *tribe* of Indians; but always when, by act of Congress, such a title has passed to Indians, it has been to *individuals* in *severalty*.

The language used to place the disposition of the public domain in the hands of Congress is precisely the same used in the same instrument to give Congress power to "coin money," "to borrow money," "to provide for the punishment of counterfeiting securities, or coin of the United States;" "to establish post offices and post roads;" "to declare war;" "to provide and maintain a navy;" "to declare the punishment of treason;" "to determine the time of choosing the electors;" &c., &c.

If the treaty-making power can dispose of lands, the fee simple of which is in the United States, it has equal power, by every word and every letter used in making both grants of power, to do any and all of the things above enumerated.

Has the treaty-making power ever presumed to "coin money," "to borrow money," "to provide and maintain a navy," or "to declare war," or to assume control of postal affairs?

The House of Representatives has denied the right of the treaty-making power to dispose of Indian lands, at least seven times:

1. Resolution by Mr. Julian, May 11, 1868, "passed" June 27, 1868.
2. By Mr. Julian, June 1, 1868, "read, considered, and agreed to."
3. Joint resolution (H. R. 286) relative to the lands of the Cherokee and Great and Little Osage Indians:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, directed to withhold the issuing of patents to the purchasers of lands heretofore sold, or which may hereafter be sold, under and by virtue of the treaty between the United States and the Cherokee Indians, concluded on the nineteenth day of July, in the year eighteen hundred and sixty-six, and the treaty between the United States and the Great and Little Osage Indians, concluded on the twenty-ninth day of September, in the year eighteen hundred and sixty-five, or under any Indian treaty which may hereafter be concluded, until otherwise provided for by law.

Passed the House of Representatives June 3, 1868.

Attest:

EDWARD MCPHERSON, *Clerk*.

4. June 18, 1868. Resolution offered by Mr. Clarke, of Kansas, from Indian Committee of the House, in regard to treaty with Osage Indians; denies right of treaty-making power to dispose of Indian lands, and protests against the passage of that treaty. "*Passed unanimously*."

5. Joint resolution (H. R. 259) passed June 27, 1868, denies that the treaty-making power can dispose of Indian lands. H. Res. No. 335, of same session, passed unanimously, declaring that settlers on the Cherokee neutral land should have their claims at \$1 25 per acre under the pre-emption laws.

6. On the day of , 1869, the House asserted the power of Congress over this particular tract of land by passing another joint resolution to the same effect.

Also, see speeches of Hon. George W. Julian, made at different times

during the years 1866, 1867, 1868, 1869, on the Cherokee neutral land case, the Osage treaty, and other cases.

Also, speeches of Hon. Wm. Lawrence, of Ohio, (see Congressional Globe, 2d session 40th Congress, pages 2065, 2684, 2710, 2815, 2894, 4000, 4429 and Globe, 3d session 40th Congress, last vol., appendix, page 77, and Globe, 1st session 41st Congress, pages 166, 167, 648.)

On the 28th day of May, 1830, a law was passed by Congress, which authorized the treaty-making power to *exchange* lands west of the Mississippi to such Indian tribes living east of that river as chose to remove to the west for the lands held by them where they then lived. This law authorized the issue of patents in such cases; but it made the last clause of section 3 of the law itself a part of each patent so issued. That clause reads: "*Provided always, That such lands shall revert to the United States, if the Indians become extinct or abandon the same.*"

In section 1 of that law, the word *exchange* occurs once; in section 2, once; in section 3, three times; in section 4, once; and in section 5, twice; but there is not the slightest allusion to any power of *sale*, or to any other power but the power to *exchange*, and that only for other lands.

The discussions on this "bill for removal," occupied a very large share of the time of the session of 1829-'30; and from its beginning to its ending, no man who participated in it ever asserted the fee simple of the soil to be in any of the tribes to be affected by the passage of the bill.

By authority of this *law*, the treaty of 1835 was made; and any act which that treaty undertook to do must find its authority under this law, or in some source outside of this law, or else the treaty-making power had no authority for such undertaking.

The treaty of 1835, article 3, last clause, reads as follows:

And whereas it is apprehended by the Cherokees, that in the above cession there is not contained sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi, the United States, in consideration of the sum of five hundred thousand dollars therefor, hereby covenant and agree to convey to the said Indians by patent in fee simple the following additional tract of land.

Then follows a description of what has since been known as the "Cherokee neutral land."

The treaty-making power does not presume to sell an old cannon, a condemned ship, or a lot of disabled horses. Then where did its license to *sell* the Cherokees 800,000 acres of public land come from? Surely not from the law of 28th May, 1830, and no other law has ever been pleaded as giving such a power in the case.

Article of the treaty of 1835 says:

The United States also agrees that the lands above ceded by treaty of February 14, 1833, including the outlet, and those ceded by this treaty, shall all be included in one patent executed to the Cherokee nation of Indians by the President of the United States, according to the provisions of the act of May 28, 1830.

Thus the treaty itself stipulates for *one patent*, in which is to be placed the reversionary clause of the law of 1830.

The following is a copy of the granting clause of the patent of 1838, by which the Cherokees held *all the lands ever claimed by them west of the Mississippi*. This patent is recorded in full in the General Land Office at Washington, D. C.:

Therefore, in execution of the agreements and stipulations contained in the said several treaties, the United States have given and granted, and by these presents do give and grant, unto the said Cherokee nation the two tracts of land so surveyed and hereinbefore described, containing in the whole 13,374,135¹⁴/₁₀₀ acres, to have and to hold the same, together with all the rights, privileges, and appurtenances thereunto belonging, to the said Cherokee nation forever, subject, however, to the right of the United States to permit other tribes of red men to get salt on the salt plain on the western prairie, referred

to in the second article of the treaty of the twenty-ninth of December, one thousand eight hundred and thirty-five, which salt plain has been ascertained to be within the limits prescribed for the outlet agreed to be granted by said article, and subject also to all the other rights reserved to the United States in and by the articles hereinbefore recited, to the extent and in the manner in which the said rights are so reserved, and subject also to the conditions provided by the act of Congress of the 28th of May, 1830, and which condition is "that the lands hereby granted shall revert to the United States if the said Cherokees become extinct or abandon the same."

Was this a fee-simple title?

In Blackstone's Commentaries (vol. 1, Book 2, p. 104) it is said:

A fee, therefore, in general signifies an estate of inheritance, being the highest and most extensive interest that a man can have in a feud, and when the term is used simply, without any adjunct, or has the adjunct of *simple* annexed to it, (as a fee simple,) it is used in contradistinction to a fee conditional at the common law or a fee tail by the statute, importing an absolute inheritance clear of any *condition*, limitation, or restriction to particular heirs, but descendable to the heirs general, whether male or female, *lineal or collateral*.

In Kent's Commentaries (vol. 4, p. 4) it is said:

Fee simple * * * is an estate of perpetuity and confers an *unlimited power of alienation*, and no person is capable of having a greater estate or interest in the land. *Every restraint upon alienation is inconsistent with the nature of a fee simple.*

Wharton's Law Lexicon, page 359:

Fee simple, a freehold estate of inheritance, *absolute and unqualified*. * * * An uncontrollable power of *alienation*, whether by *deed, gift, or will*.

The Cherokee Indians do not now, and never did, plead a fee simple title to the lands held by them west of the Mississippi.

If they had had such a title to the neutral land, why did they not sell it directly to the party or parties who would pay them the most for it? And why do they not now *sell to the highest bidder* the vast tract lying west of their home country, which they have been trying so earnestly to *cede* by treaty to the United States for the last two years? They held it *all* by the *same title*, by the *same instrument*, by the *same identical words*, and to-day are offering millions of acres to the government for one-fourth of what it would bring in the open market with a fee simple title guaranteed. The very men who are now pleading "fee simple" to enable them to rob fifteen thousand *white* settlers of their *homes*, would, if successful in our case, plead the *want* of a "fee simple" to enable them to rob fifteen thousand *Cherokees* of their *homes* for "railroad purposes" before two more years have passed.

As to the construction to be put upon the grant of these lands, I refer the reader to the opinion of Attorney General J. S. Black, given November 22, 1858. He says:

It is well settled that all public grants of property, money, or privileges are to be construed most strictly against the grantee. Whatever is not given expressly, or very clearly implied from the words of the grant, is withheld. * * * If you let the grantees have the advantage of the ambiguity, * * * acts which were supposed to have very little in them when they passed, will expand into very large dimensions afterward. An ingenious construction will make that mischievous which was intended to be harmless. The remedy for these evils—and they are evils to the public morals as well as to the treasury—is to let all men know that they can get nothing from the United States except what *Congress* has chosen to give them in words so plain that their sense cannot be mistaken.

Abandonment of the land is one of the conditions of its reversion to the United States.

What constitutes "*abandonment*" in such cases as this?

Felix Grundy's (Attorney General) opinion in case of Creek Indians, (Op., vol. 3, p. 390:)

Nothing more is necessary than to ascertain that the reservee left and removed from the land without an intention of returning and occupying it as his place of residence. * * * My opinion is, that so soon as a voluntary abandonment and removal from

the premises actually took place, from that time the right of the United States accrued and was perfect and complete; and although the register and receiver could not act until they had a knowledge of such abandonment, still the *rights of individuals might well and legally have their origin to different portions of said land, according to then existing laws, or laws which might be passed by Congress.*

Attorney General Butler (Op., vol. 3, p. 230) defines abandonment as "ceasing to have any direct personal connection with the use and enjoyment of the land. No judicial proceedings or actual entry on the part of the United States will be necessary to vest the estate in the United States. Whenever the estate of the Indian reservee shall have determined, the land becomes a part of the public domain, * * * *Its liability to entry for floating claims, or for other purposes, will from that time be the same as if it had then for the first time been ceded to the United States.*"

At the outbreak of the rebellion the Cherokee nation took sides against the government; and on the 7th day of October, 1861, concluded a "treaty of friendship and alliance" with the Confederate States.

The making of this treaty was most emphatically the act of the "nation," for it was "authorized by a general convention of the Cherokee people."

Article 2 of that treaty "*annexed to the Confederate States, in the same manner and to the same extent as it was annexed to the United States of America before that government was dissolved,*" all the lands described in the patent given them by the United States in 1838.

Article 5 of same treaty: "The Cherokee nation hereby gives its full, free, and unqualified assent to those provisions of the act of Congress of the Confederate States of America, entitled 'An act for the protection of certain Indian tribes,' approved the 24th day of May, 1861, whereby it was declared that all reversionary and other interest, right, title, and proprietorship of the United States in, unto, and over the Indian country, in which that of the said Cherokee nation is included, should pass to, and vest in, the Confederate States." * * *

Article 7 of same treaty: "None of the lands hereby guaranteed to the Cherokee nation shall be sold, ceded, or otherwise disposed of to any foreign nation, or to any State or government whatever, and in case any such sale, cession, or disposition should be made without the consent of the Confederate States, all the said lands shall thereupon revert to the Confederate States."

Article 40 provides for the raising by the Cherokees of a regiment of troops for the confederate service.

Article 41 provides for raising more troops for same service in the future.

Article 47 provides that if the neutral land is "lost to the Cherokees by the chances of war, or the terms of a treaty of peace, or otherwise," the Confederate States are to pay the Cherokees \$500,000, with interest thereon from December 29, 1835.

I suggest that by ceding this tract to the Confederate States they did most certainly "abandon" the land; and not only lost their right to occupy it, but that the fact was more flagrant, and the reversion to the United States was doubly strengthened by their joining with our enemies in war against us, and by the fact that that cession was to a public enemy of ours.

I submit that having thus by their own act *reverted* this tract to the United States, it became *unincumbered property* of the United States; that being in this condition, no power but that of *Congress* could "dispose of it;" that the treaty-making power was as incapable of restoring the forfeited right of the Cherokee Indians to that tract, as it would have been to give it or any other piece of public land to a railroad company

or to "John Doe," and that until *Congress* does take action in the matter of the disposition of it, no rights can possibly accrue thereon, except to *actual settlers* under the laws *already in existence*; and as a consequence, that the persons who have made *bona fide* settlements thereon have obtained equitable rights under such existing laws, of which not even Congress can divest them. The recognized law of nations that a state of war abrogates all pre-existing treaties between belligerent parties, only needs to be referred to.

I have not spoken of this "Pike" treaty with the confederacy because I wish to see the least injustice done to the Cherokee Indians, but because it furnishes Congress and the courts a plain ground on which to do justice to the people I represent.

If the neutral land had not *reverted* to the United States by virtue of any previous abandonment, the reversion would have been complete by the abandonment of it to the United States by article 17 of the treaty of August 11, 1866, which ceded the land to the United States.

That act of cession exhausted the power of the Cherokees over the land, and they had no more right to prescribe what should be done with it, than a lessee has to dictate the disposition of a leased farm, after or when his lease shall terminate.

It is a plain principle of law that no person or power can appoint a trustee to do a thing that the party appointing has not power to do.

The title to this land was in the United States, and if a trustee was to be appointed, only *Congress* could appoint one.

Again, if any trusteeship had been created, the act of sale by the person who assumed to act as trustee in this case was void, by the rules of law regulating trusts, because a higher price was offered by another person than was accepted by the assuming trustee. General John C. Frémont offered about \$1 60 per acre for the tract, but it was sold for \$1 per acre while the bid of Frémont was yet tendered.

Again, if any sale was at all authorized by the treaty of 1866, it was a sale by quarter sections, under sealed bids. Article 17 as amended, says: "*Provided*, that nothing in this article shall prevent the Secretary of the Interior from selling the whole * * * in a body, * *

* &c. Merely "not preventing" by "this article" confers no power; and unless the power can be derived from some other source, it does not exist by virtue of article 17 of the treaty, to sell "in a body," even if we were to grant the power to sell under sealed bids.

Again, if for no other cause, the sale was void for want of compliance with the stipulations; because by the amended article 17, "*the whole of said lands*," if any sale in a body was at all authorized, were to be sold "*in a body*;" and by reference to the treaty it will be seen that the "*neutral land*" and the "*strip*" extending from the Neosho River to the west side of the State, and lying just north of our southern boundary, together constitute the "*whole of said lands*" spoken of. The neutral land is only a part of that whole. This defect was not cured by the supplemental treaty of 1868, if for no other or better reason, because the power of the Cherokees over the tract ceased *certainly* as soon as the treaty of 1866.

On the 22d day of July, 1854, Congress passed a law, section 12 of which reads as follows:

And be it further enacted, That all the lands to which the Indian title has been or shall be extinguished within said Territories of Kansas and Nebraska shall be subject to the operations of the pre-emption act of 4th September, 1841. * *

On the 2d day of June, 1862, Congress passed "An act to establish a land office in Colorado, and for other purposes." The words "*and for*

other purposes" are held by the custom of Congress, and also by decisions of the Supreme Court, to include all possible subjects of legislation. The first section is, in the broadest language, a general enactment, that "*all the lands belonging to the United States, to which the Indian title has been or shall be extinguished, shall be subject to the operation of the pre-emption act of 4th September, 1841.*"

Section 2 of the act proceeds to establish a *local office*, under this act, in *Colorado*.

The supreme court of the District of Columbia has twice declared the first section of this law to apply all over the nation. (See decisions of that court in case of *Whitney vs. Frisbie*, August 16, 1866; and again, decision in same case, and decree entered thereon at the general term of same court, May, 1868.)

Our laws relating to pre-emption give a right to all persons possessed of certain qualifications to settle upon certain lands designated by law, and to purchase one hundred and sixty acres or less, so settled upon, for \$1 25 per acre, to be paid within one year from date of settlement.

This right can only be defeated by the claimant's *own act or fault*.

No other person can intervene between him and his title from the government, and if he fulfills his part as far as the government gives him opportunity, even that government cannot deprive the claimant of his right to title, either by an arbitrary exercise of power, or by taking advantage of its own neglect to afford him the opportunity to fulfill the exact conditions and times prescribed by the law. This position is well sustained by the universal principle of law that no person or party is allowed to take advantage of his own fault, and that no person shall suffer for the crime or neglect of another.

Lytle vs. The State of Arkansas, 9 Howard, 333, the court say :

The claim of pre-emption is not that shadowy right which by some it is considered to be. Until sanctioned by law it has no existence as a substantive right; but, when covered by law, it becomes a legal right, subject to be defeated only by a failure to perform the conditions annexed to it.

It is founded in an enlightened public policy, rendered necessary by the enterprise of our citizens. The adventurous pioneer who is found in advance of our settlements encounters many hardships, and not unfrequently dangers, from savage incursions. He is generally poor, and it is fit that his enterprise should be rewarded by the privilege of purchasing the favorite spot selected by him, not to exceed one hundred and sixty acres. That this is the national feeling is shown by the course of legislation for many years.

In *Delassus vs. The United States*, 9 Peters, 133, Chief Justice Marshall says:

No principle is better settled in this country than that an inchoate title to lands is property. * * * The inquiry then is whether this concession was legally made by the proper authorities, and might have been perfected into a complete title.

In *Smith vs. The United States*, 10 Peters, 330, the court says:

It was never doubted by this court that property of every description in Louisiana was protected by the law of nations, the terms of the treaty, and the act of Congress, nor that in the term "property" was comprehended every species of title inchoate, or perfect, embracing those rights which lie in contract, those which are executory, as well as those which are executed.

The supreme court of the District of Columbia, August 16, 1866, said:

The government has granted him the option in the bargain either to go on and fulfil it until his title is perfected by the patent, *or to quit the land at his pleasure*. In the latter event the government can suffer no damage, for it has parted with no value, and retains the title to the land. It is like a contract for the sale of land, in which the owner retains the title as security for the purchase-money.

The purchaser, unless he have given his personal contract to the contrary, may at any time abandon his improvements, and leave the property to its owner without further liability. And yet had he remained, and complied with the terms of his agreement,

the owner would have been bound to him for the title, and in the meantime the purchaser had an equitable interest of which no power could deprive him without his own consent, unless taken for public use by the government on payment of its value. * * * Under it the settler who enters upon public land, and complies with its terms, has the right, by law, to demand his title from the government, by the strict terms of a contract, and not as bounty which the government is at liberty to grant or to withhold at its pleasure.

Its own want of either power or of disposition to take away the rights of pre-emption claimants has been constantly recognized by Congress itself in its acts granting lands to railroad companies, &c.

Also, in support of positions above taken, see *Fletcher vs. Peck*, 6 Cranch; *New Jersey vs. Wilson*, 7 Cranch; *United States vs. Fitzgerald*, 15 Peters 419; *Garland vs. Winn*, 20 How, 8; *Rice vs. R. R. Co.*, 1 Black, 358; *Lytle vs. Arkansas*, 9 Howard, 333; *Finley vs. Williams*, 9 Cranch; *McAfee vs. Kim*, 7 S. and M. Miss. Rep., 780; *Worn vs. Marshall*, 20 How, 565; *Wilcox vs. Jackson*, 13 Peters, 498; *O'Brien vs. Perry*, 1 Black, 132; *Brown vs. Griswold*, 11 Illinois, 520; *Tennett vs. Taylor*, 9 Cranch, 43; *Paulett vs. Clark*, 9 Cranch 292; *Willot vs. Sanford*, 19 How, 79; *State of Minnesota vs. Batchelder*, 1 Wallace, 115; *Minter vs. Crommelin*, 18 How, 87.

Also, decision of Secretary of Interior, *Lester's Land Laws*, page 550.

The fee simple to all lands held by Indian tribes being vested in the United States, it follows that all lands not owned by private persons, or by corporate bodies under our laws, *are public lands*.

Public lands encumbered with the Indian possessory right cannot be settled upon except by consent of the Indians holding that right. But as a consequence of the laws of 1854 and of 1862, if the Indians permit a settler to locate and to remain on such lands until the extinguishment of their right, he is entitled to the pre-emption.

On the 20th day of May, 1862, Congress passed the "Homestead Act." This law was the result of a discussion that lasted more than twenty years. It was first adopted as an article of political faith by the "free soil party" at the Buffalo convention, and held, next to the anti-slavery idea, the most important position in the platforms adopted at Pittsburg, August 11, 1852; and at the republican convention held at Chicago, May 16, 1860, after "protesting against the sale or alienation of the public lands," * * * the convention "demanded the passage by Congress of the complete and satisfactory homestead measure which has already passed the House."

The republican convention held at Cleveland, May 31, 1864, resolved, "That the confiscation of the lands of the rebels, and their distribution among the soldiers, and *actual settlers*, is a measure of justice."

The faith of the republican party was pledged on the stump, by its newspaper organs, in Congress, everywhere, that the public domain should be sacred to *actual settlement by the people*.

The democratic convention, which met at New York, July 3, 1868, placed itself squarely on the same ground. Also see resolution of Kansas State convention of 1868.

The pre-emption laws, the laws of July 22, 1854, and June 2, 1862, and the homestead act, stand on the statute book unrepealed, and no man or party dares attack them openly.

The promises of the political parties are known and read of all men.

Are these laws to be carried out, and these promises kept, or are both to answer the purpose of decoys to lure a trusting pioneer population on to make settlement on the lands of the United States, only to find, when it is too late to save themselves from ruin, that the laws are

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ignored, the promises broken, and they delivered into the hands of speculators by a "*railroad grant*" or a "*treaty sale*?"

The treaties of 1866 and 1868, by virtue of which Mr. Joy claims title to our homes, conflict directly with the law of July 22, 1854, (sec. 12,) and of June 2, 1862, (sec. 1;) and, in order to meet this difficulty, our enemies assert that a "treaty is the supreme law of the land." (Constitution, article 6.)

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the *supreme law of the land*."

First, the Constitution. If a law formally passed by both houses of Congress, and signed by the President, is not in accordance with the Constitution, the Supreme Court is expected to declare it to be invalid.

Next, "laws of the United States;" and lastly, "treaties * * made under the authority of the United States."

In the name of Noah Webster, in the light of the science of English grammar, do these words make a treaty with a tribe of Indians *supreme* over the Constitution and the acts of Congress?

The Capitol building itself is no more the property of the United States than the "Cherokee neutral land" became on its recession to the United States in 1866; and it is about as much occupied by Indians as the neutral land has been at any time since 1860.

Now, suppose that in a treaty with some tribe of Indians it was stipulated that the Secretary of the Interior was to sell the Capitol building for the benefit of the Indians, and the Secretary should proceed to sell it to James F. Joy. The case of the settlers on the neutral land is the better case by just so much as it is strengthened by the rights of three thousand families of Americans, under existing laws.

The Constitution, by giving to "Congress" the "disposal of the territory" of the United States, denies the power to do the same act to every other department of the government. No man has yet plead the existence of any *act of Congress* authorizing the sale of the Cherokee neutral land to James F. Joy.

The dominating power of Congress over the treaty-making power has often been asserted by our greatest statesmen and best lawyers. It has been used by Congress to abrogate treaties with *foreign powers*. See act of July 7, 1798, U. S. Statutes at large, vol. 1, page 578. Also, Barclay's Digest for 1867, page 135. Also, see American Law Register, January, 1868, vol. 7, No. 3, N. S., page 149; case of *Gray vs. The Clinton Bridge*.

If *Congress* can abrogate a *treaty* with France, how can a *treaty* with fifteen thousand Cherokees set at defiance the laws of July 22, 1854, of June 2, 1862, the homestead act of May 20, 1862, the whole code of pre-emption laws, and the rights under those laws of fifteen thousand loyal Americans? But it is pleaded that these treaty sales of Indian lands have acquired force if not validity from their successful repetition. The first *treaty sale* was to a railroad company, and was *put through* in the year 1860. From that hour to this, every treaty sale has wronged more or less settlers already on the land; has robbed the landless poor of the nation of their right to make homes out of a share of the "people's heritage;" and has, at the expense of producers, enriched corporations, or increased the already enormous wealth of capitalists. How many illegalities make one legality? How many wrongs make one right? How many repetitions are necessary to sanctify a series of out-

rages? Are the land laws and the land policy of this nation to be subverted by a six-years-old usurpation?

The *last* treaty sale was that of the Cherokee neutral land, in the year 1866.

The *system* died by verdict of *the people*, after a career of six years.

Mr. Joy pleads that the treaty of 1835 was sanctioned by law of July 2, 1836, (5 Stat., page 73—marked obsolete in margin.)

"For the amount stipulated to be paid for the lands *ceded* in the first article of the treaty with the Cherokees, of the 29th December, 1835, deducting the cost of the land to be provided for them west of the Mississippi, under the second article of said treaty."

Mr. Joy also cited 4 Stat., pages 789, 790, 791. Page 789 appropriates "permanent annuity," as per treaty of 1798, and for educational purposes, as per treaty of 1828. Page 790 makes an appropriation for the removal of Cherokees, as per treaty of 1828. Page 791 makes an appropriation to defray expenses of negotiating for Cherokee lands east of the Mississippi. This act was passed March 3, 1835, before the treaty of 1835—December 29—was made.

The idea that anything that is contained in these laws could, or did, affect the character of the right of the Indians, or of the title of the United States to the Cherokee neutral land, or the rights of settlers under laws of the United States, is so absurd that it needs no further refutation than the statement of these items in connection with the facts. Mr. Joy tells us the company will be ruined if the bill now before Congress should pass. If this was *true*, it is also true that three thousand families of poor people will be ruined if Mr. Joy holds their homes. I accept this issue. Half a dozen or so very rich men will lose millions of *prospective plunder*; or else several thousands of poor men will lose most of their hard-earned little property.

Is the *gobbling* of the neutral land the object for which this great line of railroad is being built? Then railroad building has ceased to be prosecuted to supply the demands of business, and is now carried on as an assistant to land speculations.

But let us see about this "*ruin*." I am furnished the following items by Attorney General Danford, of Kansas:

The Missouri River, Fort Scott, and Gulf railroad have obtained from the State of Kansas 125,000 acres of land, worth at least five dollars per acre, \$625,000; bonds, Kansas City, \$150,000; bonds, Johnson County, \$150,000; bonds, Miami County, \$150,000; bonds, Bourbon County, \$150,000; total, land and bonds, \$1,225,000; equal, for *each mile* of the road inside of the State of Kansas, to \$7,656 25. If Mr. Joy holds the neutral land, we may add as profit on that job, at least \$6,080,000. The company will then claim land in the Indian Territory, under act of July 25, 1866, equal, at five dollars per acre, to, say \$9,600,000. Total, leaving out extra value of town property, coal mines, stone quarries, &c., \$16,905,000; equal, for the whole line of road from Kansas City to southern boundary of the Indian Territory, to, per mile, \$36,750.

By the proposed programme, the people of the neutral land, fifty miles of this road being on our tract, would furnish the means to build 243 miles, at \$25,000 per mile. The people of the State of Kansas would furnish the means to build 292 miles.

Kansas and the Indian Territory would furnish the means to build 676 miles.

How much Texas is expected to hand over to this supplicating company I have no means of approximating.

This is the company that comes here importuning Congress to allow

it to consummate the "Cherokee neutral land *job*;" this the company that with dolorous whine insolently pits its prospective plunder against the rights of thousands of soldiers of the Union army to soil enough to build them homes upon; and, in the same harangue cracks its whip over the lower house of Congress for having dared to recognize the settlers' rights.

For what reason should the people of the neutral land be given over to the tender mercies of the railroad king?

No plea of its justice has been entered except by those interested in the *job*.

IS IT GOOD NATIONAL POLICY?

If our democratic-republican form of government is a failure, and if we are in need of a government of the many by the few, the process by which to secure it is already found in the systematic granting of the public lands to railroad companies, and in the treaty-sale system of the last few years.

If to divide our newer States and Territories into dukedoms and baronies, tenanted by serfs, is good policy, then take away from the poor settlers on the neutral land their homes and give them to the *railroad king*, as his admirers perpetually style him, James F. Joy.

There is not a boy ten years old on the neutral land that does not instinctively know that the humble family, of which he is a part, has a right to the spot they have made into a home. He has been taught to believe the government of his country is just. He knows the story of his father's hardships, dangers, and sufferings, on the field, in the hospital, in the southern prison. Rob that family of their home, turn them away from the trees they have planted, and the vines they have nourished, or compel them to yield up the earnings of years as the price of permission to remain upon it, and think you when another war comes, and the nation once more calls on the bone and sinew of the people to fill up the rank and file, that boy will not hesitate and stand back when he thinks of what his father did for that country, and of the return he received? Will it stimulate patriotism in the hearts of the men who fought, and of their children, to give their homes to men who during the war amassed millions by speculating in the nation's necessities—railroad transportation, shoes, material for uniforms, supplies, &c., &c.

The decision by *some* Kansas court, quoted by Mr. Joy, only needs to be carefully read. I ask no more for it.

Mr. Joy pleads act of July 25, 1866, that it gave the "Kansas and Neosho Valley Railroad Company," since changed to the "Missouri River, Fort Scott and Gulf Railroad Company," the right to "acquire from any Indian nation or tribe authorized by the United States to dispose of lands for railroad purposes," &c.

The pretended purchase of the Cherokee neutral lands *was not made by any "railroad company," but by James F. Joy*; and in the supplemental treaty of June 10, 1868, *not the slightest intimation can be found that the purchase was made by, or for the benefit of, a "railroad company."* A law authorizing A to buy a piece of land, does not authorize B to buy it. A sale to "James F. Joy" is not a sale to a "railroad company;" and I insist that the contract, which is contained in the supplemental treaty, is the only evidence that would be admitted in a court, as to who the purchaser was; and that no assumed conveyance of the land from Joy to a railroad company can bring the original sale to him within

the scope of that law. *If* the sale to Joy was *valid*, he might at any time between the date of his purchase and that of his attempt to convey it to the railroad company, (nearly or quite a year,) have made any other disposition of it he saw fit; and no person or no *company* could have hindered him.

But the settlers on the Cherokee neutral lands have a full guarantee for their protection in the first section of the act itself, which fixes the commencement of the company's rights to have the lands withdrawn from sale by the United States, and from homestead and pre-emption settlement, at the time "when the line of said road is *definitely located*." Section four of the same act prescribes the conditions on the fulfillment of which the Secretary of the Interior shall withdraw certain lands from market. These conditions have not been fulfilled up to the present time.

Mr. Joy's disingenuous attempt to convey the impression that he was to lose what he had paid on the land will be shown in its true colors by reference to the bill itself, which provides in terms for the refunding of all moneys paid to any officer of the United States by any party, under any of the assumed treaty arrangements.

Mr. Joy says if our bill could have any effect it would make a present, under the act of July 25, 1866, to the railroad company of the whole tract.

His earnest efforts to prevent its passage is proof enough that he really does not doubt its *effect* if passed. A railroad company struggling for the privilege of paying \$640,000 for what they might get for nothing! "Tell that to Appella, the Jew; *he may believe thee*."

General Hazen appears as commander of Mr. Joy's "army of occupation" on the neutral land, and finding no use for his sword betakes himself to his pen and employs his otherwise monotonous hours in writing letters, legal and otherwise, in the interest of Joy & Company. What motive could a general of the United States Army have had in writing up this *land case* for Governor Harvey and for the newspaper press?

The history of the stationing of *troops* on the neutral land is this: Emissaries of the railroad company procured from the sheriffs of Crawford and Cherokee Counties certificates, addressed to the governor Kansas, and stating that there had been armed resistance to the service of process in their counties; that the law could not be executed, and that a reign of terror existed on the tract. On these sheriffs' certificates Governor Harvey made a request to the President for United States soldiers to be sent into the State of Kansas and on to our tract.

Article IV, section 4, of the Constitution of the United States, act of Congress of February 28, 1795, and act of March 3, 1807, authorize the legislature of a State to apply for troops, in case of "*insurrection against the government*" of the State; or "*if the legislature cannot be convened*," then the executive may make the request.

But Governor Harvey, untrammelled by such useless shackles on *his* action as the above, boldly strikes out a *new* and direct path to the objective point.

There had not been, nor has there been to this good hour, the slightest resistance to the *execution of any process, civil or criminal; no obstruction or intimidation of any court*.

The troops have not been called on to assist an officer or to sustain a court.

These facts are in evidence before a committee of our legislature. *Insurrection?* No. The presence of troops on the neutral land was procured by a railroad monopoly for the moral effect it would have in

the contest between that monopoly and the settlers, and the expense to the tax-payers of this nation of throwing this heavy weight into Mr. Joy's end of the scale already foots up more than \$100,000. The Indians murder our frontier settlers almost with impunity; and the people and army officers on the border are calling for more protection, but those troops still abide on the neutral land.

In answer to the charges made against the settlers of terrible outrages committed by them, I state the facts. Only seven of the settlers have been arrested by the civil officers, and that soon after the soldiers came; these seven were bound over to appear at court. They appeared, and Judge Low *dismissed* every one of the cases as *frivolous*. The men who are accused of everything criminal, by the subsidized newspapers, are at large, ravaging the country with plows, harrows, and similarly dangerous tools. The ground is literally torn up, and large quantities of seed wheat and oats have already been buried; and if the army does not interfere more vigorously before long, many bushels of both corn and potatoes will share the same fate.

A decent regard for appearances requires that *business* on the neutral land be found for those troops, or that they be sent where they can find business.

ATTORNEY GENERAL CUSHING.

On the 19th day of July, 1856, Attorney General Cushing gave an official opinion on the request of the governor of California to the President for "arms and ammunition" to place in the hands of the militia of that State for the purpose of putting down the "vigilance committee."

Mr. Cushing decided that not even "arms and ammunition" could constitutionally and legally be sent, except upon request of the legislature; or upon a showing by the governor that the legislature could not be convened, his request might be granted; and that not even that aid could be given until "the whole constitutional power of the State had been exhausted."

Our position has lately been again sustained by the action of President Grant in the Tennessee case. I have not been able to learn whether the present Attorney General gave an opinion in the Tennessee case, but the papers inform us that the request of the governor of that State was refused because he had not called the legislature together. If governors of States can ignore the existence of legislatures, and are able to procure troops on their own requests, it is only necessary for railroad companies to elect a governor, or to buy one already made, and the strong right arm of the general government is at their service.

Mr. Joy states that a large number of the settlers have contracted with the railway company for their homes. Drowning men will catch at straws. Mr. Joy stood with his contract in one hand, and the United States Army in the other. The threat was openly made that such of the settlers as did not contract would be driven off by the military; and under this pressure every appliance of deception was used by the railroad ring, with frantic energy. What wonder that the timid portion of our people gave up all hope of justice at the hands of the government; that they believed *anything* to secure our subjugation could be carried out by *King Railroad*; and many an ex-soldier felt more of heart-sickening fear at the prospect of losing his family's home, than he had known at Shiloh, Vicksburg, or Chickamauga. A large share of those who contracted, did so with very much of faith that Congress would, at the present session, relieve us of this wrong; and, as the last trap was

baited with a credit of more than a year before any payment was required, that nothing would be lost by it. Many letters here in my possession will sustain what I have said on this subject. As proof of the truth of what I have said in regard to the charges made against the settlers of "outrages committed," "officers resisted," "civil war," &c., I refer the committee to the majority report and the two minority reports of the committee sent by the legislature to our tract to investigate the state of affairs there. The report of the majority does not assert any such things to be facts as would justify the presence there of United States troops. The testimony of no one witness before that committee asserts any resistance to an officer, or the obstruction of any court; and I call the attention of this committee to both the minority reports; and to the fact that both of the sheriffs who furnished the certificates on which the governor acted in calling for troops, absented themselves from our part of the country, evidently because they feared to face, under oath, before that committee, the false certificates they had furnished to aid the railroad company. I also call the attention of this committee to the "evident willingness" of the majority report of that committee.

The only man who has lost his life on account of this land difficulty was Jeremiah Murphy, who we believe to have been shot by a *hired assassin*, because he was a "leaguer;" and the only other attempt to take any man's life was in the case of H. McGinnis, who was fired at twice by a "Joy man," while under arrest, disarmed, and closely guarded by a civil officer.

McGinnis being a "leaguer," the man who shot at him had no difficulty in escaping the infliction of any penalty by the aid of his "law and order" friends.

Just after the murder of Murphy his killing was openly applauded by "Joy men" in both Fort Scott and Baxter Springs, and it was openly said by the same parties that Sanford, Vincent, and Laughlin would be served the same way. Whether the settlers are not "more sinned against than sinning" let all candid men judge, first taking care to know the truth.

HOW AND WHY WE SETTLED HERE.

As early as during the administration of President Buchanan a considerable number of families, attracted by the beauty and fertility and the genial climate of this section, and meeting with no opposition from any source, came upon these lands. For political reasons a movement was set on foot to eject these settlers. Soldiers, without any proper authority, were brought here, and a few worthless buildings burned. The indignation of the settlers at such unwarranted proceedings was such that the *military* desisted from their work of ejection, and the citizens sent a delegation to see President Buchanan.

The President told them to return to their homes and occupy them, to encourage the settlement of the country, and the land would soon come in under the pre-emption law.

The military, that politicians had procured to be sent here as a part of their *nice little game*, was immediately withdrawn, and settlement went on.

During the rebellion the neutral land was held alternately by both parties, the settlers not being able to remain safely at their homes.

Thousands of Union soldiers campaigned back and forth over these lands, and when the war was over thousands of them brought their families here to make homes.

The Indians *directly*, and even *earnestly*, encouraged the settlement of the country, *immediately and always, after the war.*

In March, 1866, President Johnson wrote to us: "Go on and settle it up, and make a country of it, and you shall be protected in the home-stead and pre-emption right." Senators Lane, Pomeroy, and Ross, by many letters, some of which are yet preserved, stimulated our occupation of the country, and assured the settlers of their safety under the land policy and laws of the nation.

The jurisdiction of the general government has been complete here ever since the war, and that of the State since the treaty of 1866, and not a word of discouragement to our settlement has ever been heard from any party concerned up to this date, even Mr. Joy having by letter encouraged people to continue to occupy the land he claims and *trust him to fix the terms at some time in the indefinite future!*

WHO AND WHAT THE PEOPLE OF THE NEUTRAL LAND ARE.

We number about twenty thousand souls.

Most of us came from the States north and east.

Three-fourths of our men were Union soldiers.

More than a common proportion of us are young men with growing families, and we do but state a plain fact when we say that a more loyal, moral and substantial, or a better behaved people of equal numbers, cannot be found on any one spot in the Union, the vile slanders of our enemies to the contrary notwithstanding. We are poor, but we are not contented to remain so. We live on such as we have, and wear our old clothes, not out of choice, or from laziness, but from a necessity of which we are not ashamed.

What we want is *our homes*, with titles from the government, at government rates.

Leave to build houses and barns—to plant for *ourselves* orchards and vineyards—liberty for us, and for our wives and children, to sit under *our own vine and peach tree*, and to enjoy the benefits of our labor, instead of sending it east to gorge the coffers of pampered aristocrats.

The settlement of so much of our country as is yet unoccupied by other families on the same terms.

The sixteenth and thirty-sixth sections for school purposes, or, where they are occupied, "other lands as contiguous as may be," (see act of admission.)

THE KIND OF TITLE OFFERED TO THE SETTLERS BY JOY & CO.

There is on record, at our county seats, what purports to be a trust deed of the Cherokee neutral land, to which we invite attention. Whether this beautiful instrument is a sham or not, it is not our purpose to inquire at present. The rascality is equally apparent whether the transaction is regarded by the parties to it as genuine or not. The trust deed recites that James F. Joy has conveyed the neutral land, in fee simple, to the Missouri River, Fort Scott & Gulf Railroad Company; that the railroad company deeds the tract in trust to Nathaniel Thayer, F. W. Palfrey, and George W. Weld, of Boston, Massachusetts; that the railroad company *may sell* claims of one hundred and sixty acres each, that were occupied before June 10, 1868, to actual residents thereon; but that even this *may sell* may be revoked by the Boston men on record of such revocation; that if the railroad company fails to pay either in interest or principal promptly, the Boston men may enter immediately

upon possession of the land, and having given thirty days' notice through the *New York* and *Boston* papers, proceed to sell the tract at public auction, at the *City of Topeka, Kansas*.

If Mr. Joy's title to this land were genuine, and if this trust deed is a bona fide document, to what fearful contingencies would the settlers be liable! *The "may" of a railroad company! The mercy of Boston capitalists!*

FURTHER COMPLICATED BY BONDS SPOKEN OF BY MR. JOY.

The settlers have no confidence in their chances in a four-handed grab game between themselves, Mr. Joy, the railroad company, and the Boston men, and in which our opponents propose to furnish the cards, shuffle, cut, and deal. That Mr. Joy has no confidence in the validity of the title he claims is shown by the fact that in several instances he has been tendered the money down for claims that had been "proved up," at the highest rates for which his "contracts" are drawn, and has refused to so receive the money and to return either a deed or a bond for a deed, thus attempting to force on such men as would buy from him the "contract" stipulating for a series of payments reaching over a space of seven years. He has not attempted to put his title to the test by writ of ejectment, which might soon settle it if his title was good. We have suffered for nearly two years under his attempt to *wear us out*, to frighten, deceive, and harass our poor people into submission to his extortions, and we ask to be relieved from the infliction.

We maintain that the absolute title to the Cherokee neutral lands has never passed from the government of the United States; that the patent to the Cherokees, of 1838, (both treaty and patent expressly stating their authority to be derived from the law of May 28, 1830,) only conferred a right of occupancy, which they could only relinquish to the United States; that that *was done* by the treaty of August, 1866, to say nothing of any other abandonment or forfeiture; that the attempt to make the Secretary of the Interior a trustee to "dispose of" these lands, or to "dispose of" them in any other way by treaty was void; that the tract is now, and has been since the recession, August, 1866, *entirely subject to the power of Congress, except so far as actual settlers have acquired rights under pre-existing laws*, and we ask Congress to relieve us of the necessity of wearisome and expensive litigation, by the passage of a law that shall give us title to our homes unencumbered by a doubt.

It is no bar to this action by Congress that Mr. Joy has obtained patents for a part of this land.

See letter of Secretary of the Interior to the Commissioner of the General Land Office, September 29, 1859.

Same to same, March 31, 1859.

Opinions of Attorneys General, vol. 5, page 7: "A patent may properly issue to pre-emptors, notwithstanding others to ordinary purchasers may have been issued for the same land, and remain outstanding."

Ross vs. Borland, 1 Peters, 656, the court held that "the second patent issued upon legal authority; the first did not; and therefore the second must prevail."

Brown vs. Clements, 3 Howard, p. 650, it was directly adjudged by the Supreme Court that "the second patent prevailed over the first, where the first was not legally issued."

Give us who have settled and those who shall settle on the neutral lands patents to our homes, issued by authority of Congress, and our troubles will be ended. No man assuming to hold title under a patent

issued by authority of a "treaty" will vex us more; and, *threaten litigation* as they will, we can smile at their rage.

Respectfully submitted by

W. R. LAUGHLIN,

Delegate from settlers on Cherokee neutral lands, Kansas.

WASHINGTON, D. C., March 30, 1870.

[These reports were made by a committee of the Kansas legislature.]

CHEROKEE NEUTRAL LANDS—HOUSE INVESTIGATING COMMITTEE—MAJORITY AND MINORITY REPORTS.

MAJORITY REPORT.

MR. SPEAKER: We, the undersigned, a majority of the select committee appointed under the resolutions of the house adopted February 4, 1870, to take into consideration that portion of the governor's message which refers to the neutral lands, &c., with power to send for persons and papers, and with authority to visit that region and report, both upon the action of the troops and of the people on those lands, respectfully report that, in pursuance of said resolutions, the committee visited the Cherokee neutral lands, and took the testimony of witnesses at Girard and Columbus, on those lands, as also that of witnesses at Baxter Springs, Fort Scott, and Topeka, all of which testimony is herewith submitted and made a part of this report.

We, the undersigned, find from the evidence that as early as February, 1869, an organization existed on those lands known as "The Land League;" that such organization still exists there, and that its name now is "The Neutral Land Home Protecting Corps;" that it was, and still is, a secret quasi military organization numbering fifteen hundred men, commanded by a general and drilled into regiments, battalions and companies, commanded by colonels, lieutenant colonels, majors, captains, and other officers with military designations; that one of the objects of said organization was to prevent the building of the Missouri River, Fort Scott and Gulf railroad through the neutral lands, until James F. Joy should relinquish his right or claim to those lands; that in accordance with the settled purpose of the league, about two hundred of their number, being fully armed, marched on Baxter Springs to break up the railroad land office at that place, and did, by threats and intimidation, compel its removal therefrom; that during the spring and early summer of 1869 members of "The League" forcibly burned about twenty-six hundred railroad ties in Cherokee County, on those lands; also, that they arrested Colonel J. A. J. Chapman and Captain John Runk, jr., engineers on the road, together with their party of assistants and laborers, and after burning the wagons, tents, surveying instruments, blankets, commissary stores, &c., drove the subordinates of the surveying party from the lands, with orders never to return in the employ of the railroad company, under penalty of death, and that they then marched Colonel Chapman and Captain Runk several miles south, when they stripped off the coats from their prisoners, hood-winked them, and administered to each of them fifteen lashes, and then ordered them to leave, to never return, and to never mention what had occurred, under penalty of death; also, that they forcibly drove from the line of the railroad, laborers, agents, and other employés, and from the neutral

lands many persons because of their opposition to the league and their friendship with the railroad company.

We also find that the governor of the State was informed by verbal statements, letters, affidavits, petitions and certificates of the officers of Crawford and Cherokee Counties, of the perpetration of these outrages, and that the violators of the law were too formidable to be successfully resisted or restrained by the civil officers of those counties; that, acting upon the information thus received, the governor made application to the proper military authorities for a sufficient force of United States troops to be stationed on those lands to preserve the peace and to protect persons and property; that, in compliance with that request, troops were sent and are there now, stationed at different points in Crawford and Cherokee Counties, contiguous to the line of the road, under the command of Major James P. Roy, of the Sixth United States Infantry—a gallant soldier, a most excellent and discreet officer, an honest and disinterested man.

We further find that prior to the arrival of troops on those lands, lawlessness prevailed and terrorism reigned there; that but for their presence the railroad could not have been built through the lands, nor could persons who advocated the building of the road have safely remained there. We further find that since troops have been stationed on those lands, order has prevailed throughout that region, although a very hostile feeling seems still to exist among the people; so intense, indeed, that, as we believe, should the troops be removed, collisions resulting in bloodshed would ensue. We, therefore, believe that there was a necessity for United States troops on the neutral lands at the time that they were stationed there; and we further believe that that necessity exists.

All of which is respectfully submitted.

JOHN T. BURRIS,
E. H. LEDUC,
JOHN K. WRIGHT,
Majority of Committee.

MR. SANFORD'S REPORT.

Mr. SPEAKER: The undersigned, a minority of the select committee appointed in accordance with the resolutions adopted in the house of representatives, February 4, 1869, for the purposes therein set forth, begs leave to submit the following minority report:

The entire committee proceeded to the "region" of the Cherokee neutral lands, and took the testimony of thirty-one witnesses, in writing, seven of whom were examined at Fort Scott, eleven at Girard, six at Columbus, and seven at Baxter Springs—the first and last mentioned places not being on said lands. Of this number there are six who are members of the Neutral Land Home Protecting Corps, a secret organization formed among the settlers for the purpose of testing the validity of the "Joy title" to said lands in the courts, and three who are classed as settlers' men, but not members of the organization, while the other witnesses, twenty-two in number, are either railroad employés or supporters of the "Joy purchase." The testimony of these witnesses, together with that of his excellency the governor, and the papers found in the office of the executive, comprises all the evidence obtained by the committee, and which is too voluminous to recapitulate. After making

as thorough an investigation as was possible in the limited time the committee devoted to that purpose, and after carefully considering the questions submitted to the committee, I deem it my duty to state that, in my opinion, there never existed, since the organization of the counties of Crawford and Cherokee, any necessity for stationing United States troops upon the Cherokee neutral lands, and that there is no necessity for their presence there now. This opinion is based upon the fact that the evidence shows, beyond a doubt, that the courts of record have held their terms regularly, and have never been obstructed in any manner or form; that no judicial officer has ever been prevented by violence or threats of violence from issuing warrants for the arrest of any persons charged with the violation of any law, and that no sheriff or other ministerial officer has ever been resisted or prevented in any manner from executing any writ or performing any duty, by any citizen of either of said counties. The only case of resistance to the execution of the civil law, as shown by the testimony, is that of a soldier in or near the town of Girard, who struck and kicked the constable who attempted to arrest him under the authority of a warrant issued by a justice of the peace. That there have been violations of law in those counties it is true; but in those cases most complained of, to wit, the burning of railroad ties and driving surveyors from the line of their work, there has been no attempt made to bring the offenders to justice, neither before nor since the arrival of the troops upon the neutral lands. The troops have in no instance been called upon to assist in the preservation of the peace or to quell any disturbance whatever. They are stationed along the line of the railroad and are quartered in barracks provided for them by the railroad company. The petitions forwarded to the governor from citizens of those counties, asking for military aid, were signed only by the citizens of Baxter Springs and Girard. The evidence shows that three-fourths of the citizens of the last-mentioned place are what are called there "Joy men," and that the petition was circulated by one T. H. Annibal, of Fort Scott, an employé in the land department of the railroad company, who also procured the certificate or requisition from Sheriff Ryan, of Crawford County, on the 18th day of May last, and transmitted them to the governor. The committee were unable to procure the testimony of J. M. Ryan, ex-sheriff, for the reason that he had "gone to Arkansas" three days before the arrival of the committee, and William G. Seright could not be found in the county of Cherokee. In my opinion the presence of the troops was procured by the parties interested in and claiming title to the land in controversy, for the purpose of overawing the people and intimidating them into submission to the terms offered them by James F. Joy, the so-called "railroad king," who purchased that portion of the tract unoccupied on the 11th of August, 1866, consisting of about 670,000 acres, at \$1 per acre, on nine years' credit, which sale was made by the Secretary of the Interior, without the authority of any act of Congress, and consequently is believed by the settlers to be void, as they have been so advised by eminent legal counsel. The papers presented to the governor, however, show on their face that the military asked for was for the "preservation of the peace;" and that officer states in his testimony that he made the application to the President for that purpose. The question here arises: Was this application made by the proper authority? Section four of article four of the Constitution of the United States authorizes the legislature of the State to make application to the United States to protect the State against "domestic violence," but in my opinion there is no authority conferred upon the executive to make such an applica-

tion except in cases "where the legislature cannot be convened;" and it has been held that the application must show that fact on its face. In this case the legislature might have been convened by proclamation under the provisions of section five, article one, of the State constitution. There was no "domestic violence" in the State to prevent it, and, in fact, the papers from the governor's office show that five hundred and eighty-seven of the very men who are charged as being rebellious, lawless, and insurrectionary, petitioned the governor to convene the legislature for the purpose of taking the matter into consideration. Section four of article eight of our State constitution, entitled "militia," reads as follows:

"The governor shall be commander-in-chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, and to repel invasion," and it seems to me that the military power of the State, if any was needed in this case, should have been brought into requisition before any application was made for federal troops to be stationed in Kansas to the disgrace of the State. The impression is created abroad that there is now existing on the Cherokee neutral lands, in Kansas, a rebellion so formidable that the militia of the State cannot suppress it, and therefore federal bayonets are brought to bear upon the settlers there. The same pretext that is used in this case, for the purpose of stationing United States troops in those counties, could be as consistently used in nearly every county in the State, and yet Kansas is famed for her loyalty and devotion to the principles of our democratic-republican government. Believing that standing armies in time of peace are dangerous to liberty, and that the military should at all times be in strict subordination to the civil authority, and that the presence of troops upon the neutral lands, at this time, is a source of irritation to the people and is humiliating to the thousands of as true men as ever followed the flag of our Union in its hour of peril, I submit the following concurrent resolution and recommend its adoption:

Resolved by the house of representatives, (the senate concurring:)

1. That the President of the United States be, and he hereby is, respectfully requested to cause the troops now stationed upon the neutral lands in Kansas to be removed and sent to the frontier for the protection of settlers from Indian hostilities. 2. That the secretary of state be instructed to transmit a copy of these resolutions to the President of the United States without unnecessary delay.

All of which is respectfully submitted.

AMOS SANFORD,
Chairman.

MR. SNEAD'S REPORT.

Mr. SPEAKER: The undersigned, one of the committee appointed by your honorable body to investigate the matter of sending United States troops to that portion of the State known as the Cherokee neutral lands, and to ascertain whether there ever existed any necessity for the military arm of the government there, and, if so, whether or not said necessity still exists, respectfully reports that he is unable to agree with the majority of the committee in this, that the said majority have clearly enlarged the jurisdiction of the said committee and the scope of inquiry which they were empowered to make by the house; for the undersigned cannot be mistaken in presuming that it was the intent and purpose of the

house to limit the inquiries of the committee to the service of process, and the enforcement of law, on the district known as the neutral lands; whereas the majority of the committee insisted upon giving their inquiries an unlimited range over the whole field of sentiment and action of the people of said lands, whether it had anything to do with the administration of justice or the serving of processes, or not. For example, it will be seen from the evidence that the committee went into an investigation of an alleged speech made by the Hon. Sidney Clarke, a member of Congress from this State, on a certain occasion, and also of the speeches made by other parties at the same and other occasions. What this had to do with the resistance of civil process the undersigned could not see, and therefore, of course, objected to the same, though in vain; since the majority of the committee seemed to him to be upon a political rather than a bona fide legislative mission, and bent rather on making capital against some fancied political enemy than in reporting plain facts, on a very plain matter, submitted to them for inquiry and report. And it will be perceived by reference to the testimony accompanying the report of the majority of the committee, that very much is of this kind and description, to wit, entirely irrelevant to the inquiry submitted to them for investigation; and if in order, the undersigned would respectfully submit the propriety of striking out all such evidence before publication, as manifestly irrelevant to the objects and purposes for which such committee was constituted and appointed. Nor is this all; a large proportion of such evidence will be found to be mere hearsay, and consequently incompetent under any legal rules of evidence, the undersigned having frequently objected to the same, but without effect. For example, the entire evidence in relation to the burning of certain ties heretofore mentioned or referred to in the public prints consists of the testimony of parties who heard a man say, who acknowledged himself a leaguer, that the leaguers burned them. No names are given in this connection, nor did the committee insist on having the names of the said third party who thus represented himself as a leaguer, that he might be found, and the credibility of the story thus tested. Again, the committee, as if recently charged by that great enemy of secret societies and associations, Senator Pomeroy, to institute rigid inquiry into all the requirements of such associations, and presentment make to the legislature, proceeded to swear men and compel them to disclose in detail all the internal paraphernalia of such associations, "what the design of such association was, whether they were governed by an oath," &c.; while the undersigned insisted (but insisted in vain as before) that the only necessary and proper question to be put to such witnesses was, whether their association had for its object and purpose the resistance to law and the service of process. Whether the said evidence will be interesting to the members of the house or not, the undersigned will not undertake to decide, but he does say that it showed no criminal intent or purpose on the part of the members of such association; at which the majority of the committee seemed to be very much disappointed and disgusted, and, as a last resort under the smarting of such disappointment, it will scarcely be believed by the house that the committee summoned before them the party known as the wild man of the prairies, or the gorilla, whom members of the house will recollect to have read of in the public press of last fall, as ranging over southern Kansas and infesting its swamps, to the great terror of women and children, and proceeded to examine him with all the solemnity of a sensible and credible witness, although he freely admitted that he had been impeached by no less than ten witnesses at the last term of the district court in Crawford County. The under-

signed was further surprised to find a disposition on the part of a majority of the committee to encourage only such testimony as seemed to square with some preconceived notion or theory of such majority. As an illustration of this one, J. W. Davis having been called and sworn by the committee, proceeded to testify that the league were not the evil-disposed persons that they were represented to be, which seemed to be entirely unsatisfactory to the majority, and, therefore, he was summarily and peremptorily dismissed, notwithstanding his protestation that it was unfair to call him off in the midst of his evidence. In this connection the undersigned does not overlook the fact that the evidence shows several sensational demonstrations or disturbances on and about the neutral lands, but in no case involving the loss of human life, and, therefore, not of so serious consequences as frequently occur in the towns and villages along the line of the Kansas-Pacific railroad in the western part of the State, and the undersigned is apprehensive that the majority of the committee are disposed to attach too much importance to these ebullitions of popular sentiment. If such they were, of course the undersigned does not approve or apologize for scenes that the evidence shows were enacted there, but it is not in proof that the disturbances were made by settlers upon the neutral lands or by the leagues. The undersigned derived the impression from the evidence that they were perpetrated in some cases by half-grown boys; in others, by half-drunken rowdies; and in others, he fears, by persons in the employ of or in the Joy interest. But even if they emanated from men goaded by a fancied or real sense of injury, the house should remember the answer of Dr. Franklin to the Englishman, who insisted that our revolutionary fathers were insurrectionary and disturbers of the public peace, to wit: "That much, very much, should be pardoned to the spirit of liberty." So much, very much, should be pardoned to people goaded by a sense of injury; and when you remember that two Presidents of the United States and other governmental authorities invited the people to settle upon those lands, from which they are now to be summarily expelled by certain action of the Secretary of the Interior and Senate of the United States, pronounced by the governor of the State and two legislatures thereof as infamous, their action in the matter ought to be charitably regarded, and much more when it does not appear from the report of the committee that the officers of the law were even resisted there, or that the body and mass of the settlers are not a law-abiding, moral, and religious people.

To proceed to the main points of the case, the necessity for the presence of the military arm of the government on the neutral lands, the undersigned will be very brief, as the evidence, with a slight variation, all points in one direction, to wit: That there never was any necessity for the presence of troops there to aid in the service of process or the administration of the law. For example: First. In point of credibility and respectability, certainly, in the opinion of every member of the committee, J. E. Williams, P. M., of Baxter Springs, and J. W. Hightower, of the same place, unqualifiedly and emphatically state that no such necessity ever existed, and they are supported in this by the county attorney of Cherokee County and the under sheriff of Crawford County, both of them evidently most respectable men, as well as the county clerk of the same county, and five or six other witnesses, equally credible, but perhaps not so prominent in society. Indeed, no one party testifies that the courts were ever obstructed in the execution or enforcement of the law, or that the service of process was ever resisted, except in one case, and that by United States soldiers, since they were posted

in that vicinity ; and there was almost a universal concurrence of opinion that the presence of United States soldiers was no longer necessary there. And it is worthy of notice that two-thirds of all the witnesses testifying are in sympathy with J. F. Joy and the railroad company, so that due allowance ought to be made for their prejudices and prepossessions in the premises. Of course it will be readily supposed that the very first inquiry made by the committee, on its arrival at the scene of action, was for the public authorities, to wit: The sheriffs of Cherokee and Crawford counties, upon whose requisition his excellency the governor was induced to call for United States troops to assist in the enforcement of the laws of the State upon the neutral lands, and, to our great surprise and disappointment, they had both left the country, one of them reported as defaulter to a considerable amount to his county, and the other, as was supposed, to avoid the alternative of testifying before the committee.

The undersigned, therefore, both from this circumstance as well as from the general tenor of the evidence bearing upon the point, is forced to the belief that his excellency the governor was originally imposed upon with reference to the necessity of sending the said troops to the neutral lands, and cannot fail to believe that, in view of the evidence produced by the committee, he will speedily withdraw them, because their presence there is an impeachment of the character of the people of that section, and a standing disgrace to the State of Kansas; and instead of promoting the public peace, the presence of troops stationed there, to overawe the people, is calculated to stir up ill-feeling, and make any breach which may already exist deeper and wider in the public mind. The undersigned, therefore, submits the following resolution :

Resolved, That the governor be requested to take the necessary steps to secure the removal of the United States troops from the neutral lands to the western frontier of Kansas, to protect the settlers there from the threatened depredations of the Indians.

J. H. SNEAD.

WASHINGTON AND ALEXANDRIA TURNPIKE COMPANY.

APRIL 1, 1870.—Laid on the table and ordered to be printed.

Mr. W. B. WASHBURN, from the Committee of Claims, made the following

REPORT.

The Committee of Claims, to whom was referred the memorial and evidence of the corporate officers of the Washington and Alexandria Turnpike Company, make the following report:

On the 30th of May, 1861, after the secession of the State of Virginia from the United States, and after actual hostilities had been commenced by the so-called Confederate States against the United States, the military authorities at Washington took possession of the roadway of the Washington and Alexandria Turnpike Company, from the Long bridge of the Potomac River to the city of Alexandria, in Alexandria County, Virginia, and retained authority over the same as a military highway, dispensing with toll-gates, and the collection of tolls authorized by the charter of said company and the laws of the United States, for the period of five years and five months, and until the war had ceased and the rebellion against the United States had been wholly reduced.

The company now asks compensation therefor to the amount of sixty-one thousand and eighty dollars.

The committee find that during all the period of the possession and use of said road by the government its action was a military necessity for the national defense; that military depots for army supplies were constantly kept up in the city of Alexandria, between which and the city of Washington land transit was absolutely required over said road; that at some periods of the time the enemy's flag was in view from the line of the road, and the marching of national troops thereon was required, as well as the progress of the citizens of Virginia thereon of necessity restricted. In the opinion of the committee, therefore, the complete control of the road by the United States military authority could not be dispensed with, while the rights of all citizens of Virginia, and the franchises of all corporations whatever, were inferior and wholly subservient to the rights and necessities of the United States.

The national authority was warranted in the seizure and occupation of all property and any franchise within the State of Virginia for military purposes, without incurring either legal or equitable liability to make compensation therefor.

If it shall be the policy of this government ever to recognize claims for the use of real property or corporate franchises within the so-called Confederate States, in the opinion of the committee that time has not yet arrived, and can scarcely be reached until the public debt of the nation has been greatly reduced.

2 WASHINGTON AND ALEXANDRIA TURNPIKE COMPANY.

The committee, therefore, report that the said turnpike company is not entitled to the relief prayed for in the memorial of its officers, and recommend that the same do lie upon the table, and that the committee be discharged from the further consideration thereof.

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REPORT

GEORGE W. HUNTSMAN.

APRIL 1, 1870.—Laid on the table and ordered to be printed.

Mr. W. B. WASHBURN, from the Committee of Claims, made the following

R E P O R T .

The Committee of Claims, to whom was referred the memorial of A. A. Kyle and sixteen others, citizens of Hawkins County, Tennessee, asking an appropriation of ten thousand dollars for the relief of George W. Huntsman, make the following report :

It appears that the said Huntsman is an aged and worthy citizen living in the vicinage of Rogersville, Hawkins County, Tennessee, who used his influence and exhausted his means in aid of the Union cause during the late rebellion ; his estate lying between the Stone and Clinch Mountains, in the "Poor Valley," on the route from Bull's Gap to the Union camps in Kentucky, called the "Stampede Road," from being followed by the Union refugees out of Eastern Tennessee into the Union lines, offered rest and succor to thousands who were endeavoring to escape from the conscription and imprisonment of the confederate authorities. It is estimated that at least ten thousand persons were thus assisted by the providence and patriotism of Mr. Huntsman, until, finally, his property was destroyed and rendered useless, and he himself was arrested by rebel troops and hung up by the neck (though not "until he was dead") to extort information of the Union cause, and to punish his loyalty to the federal government. From this inhuman treatment he became irrecoverably injured in health, having gone totally deaf, and only survived the rebellion in the most broken and impoverished condition, wherefore the memorialists now ask for him the bounty of his government.

Acknowledging these historical facts, and specially commending the loyalty and heroism of Mr. Huntsman, which broadly characterized the Union and liberty-loving citizens of Eastern Tennessee, the committee cannot recommend special appropriations for the relief of cases of this worthy class. So numerous are the instances where the citizens imperilled and lost all, and suffered all, that liberty might be established and rebellion overthrown, that it seems injudicious to admit an example of patriotism, duty, and suffering as a claim for a specific sum of money from the government.

The committee, therefore, report back the memorial and accompanying papers, without further recommendation than that the same lie upon the table and the committee be discharged from the further consideration thereof.

REPORT

Presented to the Senate and House of Representatives
at the second session, 1871-72

ALBANY: PUBLISHED BY THE COMMISSIONERS OF THE LAND OFFICE
1872

REPORT

The Commission of the Land Office, to which was referred the matter of the
sale of the lands of the State, has the honor to acknowledge the receipt of the
report of the Commission of the Land Office, and to state that the same has been
carefully considered, and that the following report is submitted:

It appears that the said Commission is an agent and trustee of the
State, and that it is the duty of the Commission to report to the
Legislature, and to the people, the results of its operations, and to
recommend such measures as may be deemed proper for the improvement
of the lands of the State. The Commission has the honor to acknowledge
the receipt of the report of the Commission of the Land Office, and to
state that the same has been carefully considered, and that the following
report is submitted:

A summary of the results of the operations of the Commission, and of the
measures which have been taken for the improvement of the lands of the
State, is given in the following report. The Commission has the honor to
acknowledge the receipt of the report of the Commission of the Land Office,
and to state that the same has been carefully considered, and that the
following report is submitted:

The Commission of the Land Office, to which was referred the matter of the
sale of the lands of the State, has the honor to acknowledge the receipt of the
report of the Commission of the Land Office, and to state that the same has
been carefully considered, and that the following report is submitted:

JANES, FOWLER, KIRTLAND & COMPANY, OF NEW YORK.

[To accompany bill H. R. No. 1667.]

APRIL 1, 1870.—Ordered to be printed.

Mr. STOKES, from the Committee of Claims, made the following

R E P O R T .

The Committee of Claims, to whom were referred the memorial and evidence of Janes, Fowler, Kirtland & Company, of New York, asking compensation for losses resulting from the suspension by the Government of the work under their contract, on the dome of the Capitol, from May 1861 to May 1862, having considered the same, report:

The committee find the statements of the memorialists substantially true, and most of the material facts sustained by affidavits of various parties, as well as of the memorialists themselves. And those facts not sustained by positive proof, such as relate to the actual amount of damage incurred, are, in general, sustained by the public knowledge of the extraordinary advances in prices of material and labor from 1862 to 1865, and the difficulty of obtaining skilled labor owing to the heavy drain made upon the labor of the country by the necessities of the war then upon us.

They find that the memorialists did contract for the work on the dome of the Capitol. They also find that the work on the dome was, doubtless from what seemed then to him a public necessity, arbitrarily interrupted by the Secretary of War. That at the time such interruption was made the memorialists had, after fifteen months from the date of their contract, completed two-thirds of the work, and could in one year more have completed the entire remaining portion. That in that following year of suspension there was no material advances in the prices of iron, coal, material, or labor, and no scarcity of the latter; and that therefore no loss would have resulted to the memorialists in that direction. That at the time the contract was made there was not believed to be any possibility of war or other general disturbance which the contractors could have foreseen and taken account of in their calculations of the price they agreed to take for the work. That after discharging all their skilled workmen, when resumption was undertaken of the work it must have been difficult to obtain anything like adequate force to prosecute the work with the same vigor and dispatch as before the suspension. That the memorialists, by the withholding or non-payment of so large a sum as \$40,000 by the Government, and the sudden stoppage of their business, (as they state that they had their whole business absorbed in the work on the dome,) must naturally have sustained serious loss, or, at the least, serious inconvenience; that to meet their liabilities they

were compelled to make forced sales of valuable real estate at a time of great stagnation and depression of values, and that thereby they suffered an actual loss and sacrifice, as the result showed, of over \$100,000. That the contract was taken at a low price, in the first instance, and that during the years following the year of suspension prominent manufacturers of similar work were demanding and receiving from sixteen to eighteen cents per pound, and some as high as twenty-five cents per pound.

The memorialists furnish no accurate data as to the actual loss sustained, as they state they kept no separate account of the cost of work after the resumption. But they furnish an approximate estimate of what they deem the additional cost of the various items of the work, which in the aggregate amounts to \$95,136 58.

Your committee have made an estimate in a different way, by calculating, as near as possible, the actual percentage of advance in each year over the prices of 1861, estimating the proportions of advances in each item to the whole amount.

Thus, according to the statement of the memorialists, and as seems probable from a general knowledge of the proportion of labor and materials in the work of castings and erection, coal is 6 per cent.; pig-iron, 16 per cent.; wrought-iron, 3 per cent.; freight, 6 per cent.; labor, 69 per cent.

1862.	Per cent.
Coal was	42
Pig-iron was	14
Wrought-iron was	30
Freight was	75
Labor was	20

Actual total average, extra cost, 25 per cent., or 1.75 cents per pound on 653,195 pounds put up in 1862.

1863.	Per cent.
Coal was	90
Pig-iron was	70
Wrought-iron was	80
Freight was	100
Labor was	80

Average, 80 per cent., or 5.60 cents on 286,743 pounds put up in 1863.

1864.	Per cent.
Coal was	225
Pig iron was	138
Wrought-iron was	240
Freight was	100
Labor was	112

Average, 127 per cent., or 8.90 cents on 190,649 pounds put up in 1864.

1865.	Per cent.
Coal	160
Pig-iron	138
Wrought-iron	160
Freight	100
Labor	120

Average 125 per cent. extra cost, or 8.75 cents on 51,287 pounds put up in 1865.

TOTAL RESULT.

1862—683,195 pounds, at 1.75 cents.....	\$11,430 91
1863—586,743 pounds, at 5.60 cents.....	32,857 60
1864—190,649 pounds, at 8.90 cents.....	16,967 76
1865—51,287 pounds, at 8.75 cents.....	4,487 61
Extra cost on iron, labor, coal. and freight.....	65,743 88
Estimate advance of paint and painting.....	1,000 00
100,000 feet of lumber, at \$15 extra.....	1,500 00
100 kegs nails, at \$3 per keg.....	300 00
Superintendence, tools, oil, machinery, through three years, extra.....	8,000 00
Incidental expenses	5,000 00
	81,543 88

So that it seems plain that in whatever manner it may be calculated the memorialists have sustained a very heavy loss, or been occasioned a very large increased cost in the work by reason of the suspension which threw them into the following years of high prices and scarcity of labor, and compelled the protraction of the work through three years which, it clearly appears, they might have completed in one year had they not been interrupted.

The question might very properly be here raised as to whether, by a resumption of the work without the proper authority, they did not voluntarily waive all claim for damages, they being by the unwarranted interruption of the work by the Government released from all further obligations to perform further under the contract. In reply or avoidance of this there were many extenuating circumstances which should amount to a positive justification of their resumption.

They had turned their whole business (which had been an extensive one in other branches of iron manufacture) into the prosecution of the work on the dome, with the full expectation that they were to carry it on to its completion. They had expensive scaffoldings and derricks erected. By the terms of their contract 15 per cent. of the cost of work done was to be reserved *until the whole dome should be completed*, and when the work was resumed the Government withheld \$40,000 on the contract, which it refused to pay, and the memorialists state that they feared and believed they could not get this large amount of money unless they went on and completed the same. They had done all the iron-work in the Capitol extension and had a natural pride in identifying themselves with so magnificent a structure. They state under oath that all the profits made out of other work around the Capitol were more than absorbed by the losses they incurred on the dome. They had done two-thirds of the work, and naturally believed they had a sort of right to complete it.

They were repeatedly solicited by the late Senator Foot, who was then chairman of the Senate Committee on Public Buildings and Grounds, to resume the work after the act of Congress of 19th April, 1862, authorizing the same, and were assured by him they might safely trust to the justice of Congress to requite them for all loss, and that he would be personally responsible for its prompt action in that direction. After much hesitation and serious deliberation the memorialists were induced to resume the work.

removed is a sort of quicksand, and this is urged as a reason for not commencing to excavate until the State possesses or is assured of the full means necessary for its completion, on the ground that to begin working in that kind of soil of so shifting a nature, and having to suspend work for want of means to go on, would endanger the work done, if not prove a total loss of the expenditure made.

Your committee find upon examination of the maps and plans submitted to them that Sturgeon Bay is a kind of lake, lying between Green Bay and Lake Michigan, separated from the lake by a portage of about one and a half mile in extent, through which it is proposed to cut the canal to connect Green Bay with the lake. Sturgeon Bay is eight miles long by half a mile to two miles wide, perfectly land-locked, and affords a capacious harbor of refuge for vessels seeking shelter from the storms on Green Bay and on Lake Michigan through this ship-canal.

It is shown that the opening of this canal will effect a saving of nearly two hundred miles of dangerous navigation round by "Death's Door," the present channel from the lake into Green Bay, on a voyage from Chicago to Green Bay and return, or equal to about one-fourth of the entire distance.

It is also shown that the commerce of Green Bay is growing to enormous proportions; the item of sawed lumber alone aggregating 500,000,000 feet, and of shingles near 600,000,000, while the other products of the forest shipped from, and the merchandise and machinery shipped into, Green Bay foot up annually to many millions of dollars in value.

It appears that this commerce employs a large fleet of vessels, whose aggregate tonnage is estimated at near two millions, and from the records of the light-house keeper at Green Island, on Green Bay, these vessels in 1868 made over seven thousand passages past that light-house; and it is claimed that nine-tenths of these, being in the Chicago trade, would annually pass through this canal, thereby lowering the freightage and rates of insurance, and thus cheapening the commodities to the consumers.

The report of lake disasters to vessels shows that the number of disasters in 1869 was 1,904, with a loss and damage to property of four millions of dollars, and it is shown that many of these disasters occur on the islands in the channel at "Death's Door," one witness stating that when he was on the islands in October, 1868, he saw the wrecks of two vessels on Plum Island, one on Rock Island, and a large new bark, a three-masted vessel, had a few days before gone ashore on Detroit Island, all of which proved a total loss; and it is urged that all these disasters and losses will be avoided by opening this cut-off into Lake Michigan.

The canal company propose to charge a toll of not to exceed five cents per ton measurement for vessels passing through the canal, but your committee have deemed it best to protect the commerce of that region by amending the bill so that five cents per ton shall be a maximum rate of toll.

The magnitude of the Green Bay trade seeking a channel into Lake Michigan through this proposed canal has satisfied your committee of its being a meritorious project, and to the shipping of the upper lakes a highly important undertaking, as giving to that interest a new and commodious harbor of refuge, without asking for any money appropriation from Congress; and deeming this ship-canal and harbor to be of great public interest, your committee report the bill back to the House, with amendments, and recommend its passage.

POST OFFICE BUILDINGS.

APRIL 14, 1870.—Laid on the table and ordered to be printed.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, made the following

REPORT.

The Committee on the Post Office and Post Roads, in pursuance of the following preamble and resolution adopted by the House of Representatives on December 20, 1869—

Whereas it is alleged that money has been expended largely in excess of the appropriations for the construction of the new post office buildings in New York City and Boston, and that in New York City the construction of said building has been commenced and is progressing in an unsuitable and illegal manner, and in utter disregard of the plans authorized and approved by Congress: Therefore,

Be it resolved, That the Committee on the Post Office and Post Roads are hereby instructed to make an inspection of and investigation into the construction of the new post office buildings at New York and Boston, now in process of erection, the progress made, the suitability of the locations selected for said buildings, the plans of the same, and probable cost thereof, together with the necessity for their completion, and report the facts to this House; and said committee is empowered to send for persons and papers, and examine witnesses under oath—

report:

That during the fortieth Congress the Committee on the Post Office and Post Roads reported to the House in favor of the construction of a new post office building in the city of New York, which should be large enough to accommodate, in addition to the post office, the United States courts held in the city of New York.

The following extract from the former report is adopted by the present committee:

That as to the necessity for a new post office building in the city of New York, adequate to the demands of the present and prospective business of this continental distributing office, your committee have deemed that in great measure determined, from the fact of the purchase by the government of a new site for such building under a resolution of Congress, approved May 16, 1866.

The commission authorized by that resolution, after diligent search and negotiation, were successful in obtaining ample and eligible ground, covering an area of 65,259 square feet—equal to about 26 city lots of 25 by 100 feet, at the lower southerly end of City Hall Park, formed by the uniting thoroughfares of Broadway and Park Row, and terminating along said streets at points upon each 300 feet from the curved line which bounds their junction, a specific diagram of which accompanies this report, and for the nominal sum of \$500,000, which has been paid by the government and title to the ground vested in the United States for the purpose stated. Pending consideration by the committee, objections to the eligibility of the purchased site were presented from various quarters, and while your committee have taken it for granted that the question of site was foreclosed by the formal action referred to by the government, they cheerfully listened to the various objections offered by different parties who appeared before them for that purpose when sitting in said city, and found that all such objections were substantially met by the admissions of each, that no other suitable location within the range of reasonable valuation, with clear title, could be obtainable under ten years. For no other purpose than for a post office and federal courts could the consent of the city have been secured to the sale of this property, and when it is considered that the lowest estimate placed upon its present valuation by the most reliable real estate judges of the city is not less than two and a half million dollars—some placing it above the cost of proposed structure—its purchase for the sum of five hundred thousand dollars may well be deemed an exceedingly fortunate negotiation for the government.

By virtue of a commission appointed under a resolution of Congress, approved January 22, 1867, plans and specifications were submitted for a suitable building for the place and purposes of a United States post office and courts.

In pursuance of this duty said commission formally adopted rules and regulations, specific requisites for the building, including a generous scale of premiums for the four most meritorious plans, all of which, after receiving the approval of the Secretary of the Interior and Postmaster General, were under circular form published and circulated with invitations for general competition in the submission of plans for the selection and adoption of the commission. Fifty-two plans were thus received, thirty-seven of which were at once rejected, the remaining fifteen thereafter reduced to five, each of which covered respective features deemed desirable in the plan finally to be adopted. These five, submitted by the several architects, Runick & Sands, N. Le Brun, Schulze & Schoen, Richard M. Hunt, and John Correjo, were subsequently combined in one, with the essential merits of each, and finally adopted as the plan of the commission, and fully approved by the Secretary of the Interior and Postmaster General. This chosen plan, together with specifications and estimates, including perspective designs of proposed completed structure from various points of view, are also herewith submitted.

The commission above alluded to who procured the plans for the said building consisted of Hon. John T. Hoffman, then mayor of New York City; James Kelly, then postmaster of New York City; S. G. Courtney, then United States district attorney for the eastern district of New York; A. A. Low, president of the Chamber of Commerce of the city of New York; Jackson S. Schultz, Charles H. Russell, Charles H. Rogers, and Moses Taylor, New York City. By the act they were directed to "*procure plans and estimates for a suitable building upon said site, to be submitted to the Postmaster General and Secretary of the Interior; and should such plans and estimates meet their approval, they shall communicate the same, with such additional suggestions as they may think proper, to Congress.*" The commission above alluded to served without compensation, and their report was approved by the Postmaster General and the Secretary of the Interior, who transmitted it to Congress on February 25, 1868.

The report of the Committee on the Post Office and Post Roads in the fortieth Congress formally approved of the plans of the commission, and of the erection of a building in accordance therewith.

The architects who prepared the plans made careful estimates of the cost of the building, which amounted to, including a liberal allowance for contingencies, the sum of \$3,542,930. Your committee examined these architects under oath, and they all *reaffirmed the correctness of their plans and estimates*. This plan proposed to utilize, by inclosing within the walls of the building, *all the ground embraced in the purchase*. These plans were criticised and objected to by the Supervising Architect of the Treasury, chiefly, among other things, on account of the alleged extravagant cost of such a building, and also on the ground that the use of fifty-eight feet girders, clear span, above the drive-way, "to support the floors and partitions," were a violation of sound principles of construction.

His estimates, however, did not materially differ from those of the New York architects for a building after their plan, but he claimed that a building of either granite or marble, of the same size and general style and plan, dispensing with what he thought was unnecessary iron work, could be constructed for much less. His estimate for a building according to the plans of the congressional commission was \$3,435,878 46. His estimate of a marble building, "*first class,*" "*equal capacity,*" &c., \$2,495,212 22. And for a "*granite building,*" "*first class,*" "*equal capacity,*" and similar design, was only \$2,156,555 06. During the last session of the fortieth Congress, without other legislation providing for the erection of such a building, an amendment was made to

an appropriation bill, appropriating *two hundred thousand dollars* to commence the construction of a building.

Without any examination by the present Secretary or Postmaster General of the plans provided by the commission, the Supervising Architect threw them aside, and prepared outline plans of his own that were not submitted to Congress, (although they were formally approved by the above-named officers,) and proceeded to expend the appropriation of \$200,000 and an unexpended balance of about \$280,000 of an appropriation made by Congress August 18, 1856, before the erection of this building was thought of, which was decided to be available for that purpose by the Comptroller of the Treasury, in the foundation of a building; and we are now called upon by the estimates to appropriate one million more to continue the work until the 1st of July, and one million five hundred thousand more to continue the work another year thereafter.

The Supervising Architect has made outline drawings and plans (besides the working plans of the basement or foundation) for a building embracing some ten thousand square feet less area than the one projected by the New York architects, and has furnished the committee with estimates showing that the building he is erecting will cost \$3,864,088 83, being \$1,707,533 77 more than his estimate of March, 1868, for a larger building. The Supervising Architect alleges that his estimate of March, 1868, (of \$2,156,555 06,) was made upon false quantities furnished him by his computer, as he believes, intentionally, which, however, is denied by the computer, who verifies the computation and estimate he then made. Although but \$200,000 was appropriated by Congress to "*commence work*," and although from Mr. Mullett's testimony it would *seem* that the work done and contracts let would not exceed the appropriations, the committee find that the "Supervising Architect," *without authority of law*, has contracted for the granite and dressing of the same for the entire building, which will amount, according to his own estimate, to between *one and a half to two million dollars*.

Proposals for furnishing the stone (not the dressing) were advertised for in New York, *for the foundation only*, and several "*bids*" received; among them C. P. Dixon, on behalf of the Dix Island Granite Company, offered to furnish the granite for *sixty-five cents* a cubic foot; W. H. Williams offered to furnish it for sixty-two and a half cents a cubic foot.

The bid of Mr. Williams was rejected by Mr. Mullett for the alleged reason that his quarry had not been sufficiently worked and tested, &c., to rely upon its furnishing a sufficient quantity of the right quality of stone. It does not appear from the testimony that either Mr. Mullett or any one else, on behalf of the government, visited the quarry or made any inspection of it whatever.

The bid of the Dix Island Granite Company, for the foundation alone, was accepted, and thereupon the following contract for the stone and cutting for the *entire* building was entered into:

Contract between the United States of America and the Dix Island Granite Company.

Whereas Courtland P. Dixon, of the city of Brooklyn, county of Kings, and State of New York, who is treasurer of the Dix Island Granite Company, has proposed to furnish, under advertisement dated July 13, 1869, certain granite from the quarries of said company, situate near the coast of Maine, on an island known as Dix Island, for the new post office building to be erected in the city of New York; and whereas the Secretary of the Treasury, in behalf of the government of the United States, desires the right of using the same granite for the construction of the entire building:

Now, therefore, this indenture, made and entered into this first day of September, A. D. 1869, by and between A. B. Mullett, Supervising Architect United States Treasury

Department, for and in behalf of the United States, of the first part, and the Dix Island Granite Company, a corporation duly organized under the laws of the State of New York, the party of the second part, witnesseth—

That the said party of the second part will well and truly furnish and deliver, at the site of said new post office, at such times as may be directed by the said party of the first part, *all such stone as may be required in the construction of said building*; all such stone to be delivered from the said quarry of the party of the second part, except those for the piers and footing stone of the sub-basement, which may be furnished from other approved quarries, if desirable to expedite deliveries.

All stone for the basement and sub-basement stories to be so delivered on or before the thirtieth day of November next, and the remainder in such quantities and at such times as the party of the first part may require: *Provided, That the completion of the delivery of such remainder shall not be required before the thirtieth day of November, 1870.*

All the stone hereby contracted for to be wrought and dressed* in such manner and style of workmanship as the party of the first part may direct.

The party of the first part hereby covenants and agrees to pay, or cause to be paid, unto the said party of the second part or their legal representatives, for the stone so delivered by the party of the second part, in lawful money of the United States, the sum of *sixty-five cents per cubic foot for all stones when the quarried dimensions do not exceed twenty cubic feet in each stone, and one cent additional for every cubic foot of those having such dimensions exceeding twenty feet.*

Ninety per centum of such payments shall be made monthly for all stone so delivered, and the residue of ten per centum shall be paid when this contract shall be fulfilled by the party of the second part to the satisfaction and approval of said party of the first part; and the party of the first part will furthermore pay to the party of the second part, or their legal representatives, *the full expense and cost of such working, dressing, insuring, and boxing of said stone as may be required by the party of the first part to be done at the said quarry, increased by fifteen per centum thereof.* And for the purpose of determining the amount thereof, the party of the first part shall employ such agent or agents, who shall take all necessary account of such cost and expense, and for such purpose shall be afforded all proper facilities by said party of the second part.

It is further agreed that, in case of the failure of the party of the second part faithfully to perform the stipulations of this contract, or either of them, the said party of the second part shall forfeit to the use and benefit of the United States, as liquidated damages, the whole or such portion of the retained percentage above specified as the said party of the first part may deem just and proper; and if the amount of such retained percentage is not sufficient to reimburse the United States for the loss and damage sustained, then the bondsmen of the party of the second part are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States.

The better to provide for and secure the delivery of the stone herein contracted for, it is hereby agreed by the party of the second part that the said party of the second part shall and hereby does let and lease their said quarry, with all and singular all tools, buildings, wharves, and appurtenances thereunto appertaining, unto the said party of the first part, with the full right, authority, and power to enter upon, occupy, and use the same in any proper manner to procure therefrom any and all such stone as said party of the second part shall fail, omit, or decline to furnish; such lease to continue for the full term of four years, or such portion thereof as the said party of the first part may require to procure therefrom the stone which the said party of the second part shall have so failed, omitted, or declined to furnish. It being understood and agreed that such entry or occupancy of the said premises shall not be made by said party of the first part, unless in any such case the party of the first part shall give to the party of the second part eight days' notice of intention so to do in consequence of failures to deliver, to be specially stated, and such failure shall continue on the expiration of such eight days. And in the event of any such entry, occupancy, and use under this lease, the quarry shall be worked by the party of the first part, or under his direction, in such workmanlike manner as not unnecessarily to injure the same, and the appurtenances of every kind shall be kept in good repair, usual wear and tear excepted.

And the premises and appurtenances shall be duly released and redelivered to the party of the second part or their legal representatives, without unnecessary delay, whenever the purposes of the lease, as herein declared, shall have been accomplished.

The party of the first part hereby agrees to pay to the party of the second part, or their legal representatives, for the said use and occupancy of the said premises and appurtenances, *twenty-five cents per ton of eleven cubic feet, as rental, bankage, and wharfage for all stone procured by said party of the first part under or pursuant to said lease.*

It is further covenanted and agreed between the parties to this contract that the party of the second part shall execute, with two or more good and sufficient sureties, a bond to the United States in the sum of ten thousand dollars (\$10,000) conditioned for the faithful performance of this contract, and the agreements and covenants herein made by said party of the second part.

It is also covenanted and understood that no member of Congress, or other person

whose name is not at this time disclosed, shall be admitted to any interest in this contract; and it is further covenanted and agreed that this contract shall not be assigned, except by consent of the Secretary of the Treasury, and that any assignment thereof, except as aforesaid, will be a forfeiture of the same.

It is further covenanted and agreed by and between the parties hereto, that this contract shall be valid and binding when approved by the Secretary of the Treasury, and not otherwise, and no departure from its conditions shall be made without his written consent.

In witness whereof, the parties hereto have hereunto subscribed their names and affixed their seals this first day of September, A. D. 1869.

A. B. MULLETT,

[SEAL.]

Supervising Architect.

THE DIX ISLAND GRANITE COMPANY,
By EDWARD LARNED, *President.*
C. P. DIXON, *Treasurer.*

Witnesses to the signature of the Supervising Architect:

J. C. RANKIN.

A. G. MILLS.

Witnesses to the signature of the contractor:

HENRY ROBERTS.

A. G. MILLS.

From this contract it will be noticed that the government is to pay twenty-five cents per ton (of eleven feet) more than the bid of Mr. Dixon, for all the granite furnished under the contract.

That the *sixty-five cents per foot (the bid)* is to be paid only for those stones whose "*quarried dimensions*" do not exceed *twenty feet*, (a comparatively small portion of the stone,) and one cent per foot additional for every foot for all stones measuring more than twenty feet. Thus, if the "*quarried dimensions*" (i. e. in the rough) of the stone is thirty cubic feet, the price paid by the contract is seventy-five cents per foot, besides the twenty-five cents per ton.

The government has to pay the "*full expense and cost of working, dressing, insuring, and boxing said stone, increased by fifteen per centum.*" And, in addition thereto, the government is to pay an agent to *take the account of the expense and cost of this work!*

It will be observed that by the terms of this contract the Dix Island Granite Company are to receive fifteen per cent. "*upon the cost of working, dressing, insuring, and boxing*" the stone, without expense or risk to themselves.

Unless the expenditures for these purposes shall more carefully be scrutinized than usually, by competent and honest agents of the Treasury Department, it will be seen that a great facility would be offered to the Dix Island Company to augment the amount of such expenditures.

The committee find that a contract, similar in terms, was once before made by the government, as appears from the following extract from the testimony of B. Oertly, formerly Assistant Supervising Architect of the Treasury:

In answer to your question, whether I knew of a contract, similar in terms and operation to that for furnishing the cutting of the granite for the New York post office and heretofore made by the department, I would say that a clause in the contract for furnishing the marble-work for the Charleston custom-house was identical with the New York post office contract, and was used as the basis in the measurement of the major part of the marble-work. I would respectfully refer you to the report made by the Hon. A. A. Sargent, (California,) in 1862, (37th Congress, 2d session, Report 137,) and to one passage of the same, showing that under that contract the cost of the marble column capitals amounted to \$5,700 per capital, whereas the same capitals, and of rather larger size, for the United States Capitol was from \$1,000 to \$1,200, or very nearly only one-fifth of the former, and certainly, to all intents and purposes, as good and effective as those furnished under that notorious contract.

And, for a singular coincidence, it seems that the principal party to that contract is the president of the Dix Island Granite Company.

According to the able report of the Committee on Expenditures on Public Buildings, made in the case above referred to, under a provision in a contract like this for the New York post office, the committee said that "upon the item of capitals alone the government pays \$295,089 92 for what would cost, at a fair market price, \$51,000."

The reason given by the Supervising Architect for making such a contract is as singular as the contract, namely, that if the government hired the men to quarry and cut the granite they could be compelled to work but *eight hours a day*, while for contractors they will work *ten*.

As there is no law *prohibiting* men working *ten* or *more* hours for the government, we suppose they would be as willing to work the same number of hours for the government as for other parties, if they received equal wages; or, the government could pay less wages for less hours work.

But put as a *pretext* or *subterfuge* to get more hours' work from laborers in an indirect manner (and that, too, by putting the profits in the pockets of contractors) than could be lawfully obtained by direct means, is as unworthy as it is disingenuous and absurd.

At all events, no pretext of that kind can stand in the way of *advertising and contracting for the cutting the stone by quantities according to specifications and working drawings*.

The committee found the excavating and mason work for the foundation of the building being done chiefly by day's work, under the superintendence of the following-named gentlemen:

Hon. Calvin T. Hulburt, general superintendent, at a salary of \$16 per day; J. T. Smith, assistant superintendent, at \$8 per day; a foreman mason, a foreman stonecutter, at \$7 per day; a master rigger and a foreman for the laborers, at \$6 per day; General P. H. Jones, disbursing agent; and J. R. O'Beirne, paymaster. And that the eight-hour rule was not followed there. Although the men were working for the government they worked all day, according to the testimony of the superintendents; and your committee can see no good reason why they could not work equally as many hours for the government in a stone-quarry as in the city of New York.

From the testimony submitted with this report, it appears that the plans for the building, furnished by Congress, could still be carried out with but little loss, or change of the work so far as it has progressed; the only changes required being the *location* of some of the piers, &c., for the basement or foundation. When those plans were being prepared the architects were particularly advised by the commission, (the postmaster of New York, the Postmaster General, the law officers of the government, and the mayor of the city,) that they should make the building as large as the land belonging to the government would admit of its being; and particularly that the entrance, or drive-way for mail-wagons, should be inclosed and covered. These directions, the committee think, were wise and judicious.

There can be no good reason for throwing open to the common, or failing to utilize ten or twelve thousand square feet of ground so valuable as that ground manifestly is, and where a sufficiency of room is so difficult to obtain or provide for that great and constantly growing city.

It will be seen by reference to the evidence taken by your committee, that neither the Secretary of the Treasury nor present Postmaster General ever examined the plans provided by Congress; nor did the Secretary of the Treasury, to his recollection, direct the Supervising Architect to *prepare plans*, &c.

The statements of the Architect (Mr. Mullett) and of the Secretary of

the Treasury and Postmaster General upon these subjects are hereto appended. Nor did the Secretary "*direct*" the Architect with whom to make contracts, &c., or give a *personal* supervision of the matter. Indeed it is evident from all the testimony that the Supervising Architect has in fact suggested, according to his own discretion, the whole design and expenditure.

By a joint resolution of Congress, approved March 2, 1867, a commission, consisting of the mayor and postmaster of the city of Boston, the assistant treasurer of the United States at said city, the president of the Board of Trade, Alpheus Hardy, Daniel Daries, and John A. Andrew, of said city, was appointed to select a site for a post office and sub-treasury building in Boston, and directed to report to the Postmaster General and the Secretary of the Treasury the selection that might be agreed upon, and the price at which it could be purchased. The report of this commission, with their approval of the same, was submitted to Congress by said officers on the 6th day of March, 1868; and on the 12th day of the same month said commission was authorized by joint resolution to purchase the site for which they had negotiated, to wit: on Devonshire street between Water and Milk streets, embracing an area of about thirty thousand square feet, for a sum not exceeding five hundred thousand dollars. The site was subsequently purchased for \$453,000, and is considered central and eligible for the business wants of that city. The city government has provided for the widening and grading of the street adjoining, at a cost of half a million of dollars to the city.

The committee find that before any work was done on this building the merchants of Boston employed Gridley J. F. Bryant, an architect of acknowledged ability and skill in his profession, and the present superintendent of construction of said building, to prepare drawings for the superstructure thereof; but it does not appear that these were adopted by the Supervising Architect or that he even submitted them to the Secretary of the Treasury. Work has been commenced and is now progressing on the building, in accordance with plans and working drawings prepared by the Supervising Architect, for the basement thereof; the sum of \$200,000 having been appropriated "*for laying the foundation and commencing the building,*" by act approved March 3, 1869. The excavation was completed, the retaining or area walls all built, and the foundation under the basement floor partly finished, at the time the committee completed its investigation in Boston, but the appropriation was not then exhausted.

In the examination of the Supervising Architect by the committee the question was put to him: "*Were the contracts in Boston made upon advertisement?*" To which he replied: "*All except the granite work. In respect to that the Secretary found that there was a combination to put up the price of granite, and leased a quarry upon more favorable terms than the material could have been otherwise obtained.*" How much the Secretary "*found*" concerning this matter may be inferred from his statement to the committee; when asked whether he had authorized the making of contracts for material or labor without advertisement, he replied: "*I presume that Mr. Mullett informed me of the terms of the proposed contracts before they were made, and that I approved the proposition.*"

In this connection the committee refer to the testimony of John Gardner, who says that the Secretary of the Treasury informed him that he had no knowledge of a combination to put up the price of granite. Mr. Gardner locates this conversation on the morning of March 30, 1870. On that day Mr. Mullett was re-examined, and was asked if he adhered to his former statement in regard to the combination alluded

to above, to which he replied: "I am not aware that I ever made such a statement; I may have said that was *my* impression." But after his first testimony on this point was written out in full, he reviewed it and approved of the statement. The committee does not now attempt to reconcile these contradictions.

The history of the contracts for the granite for the Boston building is as follows:

It will be noticed that the appropriation for this building was made on the 3d of March, 1869. Shortly afterward, or "soon after the appointment of Mr. Delano, Commissioner of Internal Revenue," one Jones H. French, of Boston, a distiller by occupation, according to his own testimony, visited Washington for the purpose of getting his distillery released from a seizure for violation of the revenue laws. While in Washington he states that he was advised by General Butler to purchase a stone quarry by way of an investment for some loose capital which he then had; that he returned to Boston; considered the matter, and shortly afterward purchased five-sixths of an unused quarry at Cape Ann, taking possession on the *last of April*, 1869. Mr. Gardner, who is part owner and a director of "the Rockport Granite Company," testifies that it was understood in Boston, prior to April 28, 1869, that a bargain had been made with French to furnish the granite, and that on April 17, 1869, he wrote to the Secretary of the Treasury upon the subject. His letter to the Secretary of the Treasury, which has been furnished to the committee, is reported in the evidence. That letter seems to have broken the arrangement with French, if any had been made at that time. In the correspondence the committee find a letter, of which the following are extracts:

From Mr. Mullett to Mr. Bryant, under date of April 3, 1869.

I have this day had a conference with General Butler and some other gentlemen from Massachusetts, in regard to granite for the foundation and basement story of the post office. * * * * *

The only chance we have of conforming to the requirements of the law, &c., is to lease some good quarry, and quarry the stone by day's work, or by the cubic foot, delivered at wharf in Boston. I have also requested General Burt to do me the favor to confer with you on the subject, and I think it would be more satisfactory if you can induce him to accompany you to the quarry, as I know that a concurrence of opinion between you would place the matter beyond cavil in your city.

On April 7, 1869, Mullett sent to Bryant the following telegram:

Take no action in regard to letter of April 3, until return of Colonel French from this city.

On the 28th of April, 1869, Mr. Bryant, under directions from Mr. Mullett, issued a circular or letter to the owners of four or five quarries, including that of French and the Rockport Granite Company, inviting proposals to furnish foundation stone for the building. In response to that letter or circular, the Rockport Granite Company offered to furnish foundation stone for the building at forty cents per foot, delivered at the site of the building, and one-half a cent per foot additional for stone measuring more than twenty cubic feet; or to lease a quarry to the government at twenty cents per ton bankage and wharfage. At the same time French, in behalf of the Cape Ann Granite Company, offered to furnish the foundation stone at forty-five cents per foot, and one cent additional per foot for stone measuring more than twenty cubic feet, in addition to twenty-five cents bankage and wharfage for lease of quarry.

On May 21, Mr. Mullett transmitted to Bryant, superintendent, a contract and lease to be executed by the Rockport Granite Company, with the following directions:

In case the Rockport Granite Company refuse or neglect to execute the lease and contract at once, and give the required bond, you will then offer the same to the Cape

Ann Granite Company, substituting their prices, as their bid is the next lowest received, and I inclose their proposal for that purpose.

I should say that the Cape Ann Granite Company was preferable, even taking price into account.

The Rockport Granite Company refused to execute the lease sent them, alleging that it was a departure from the terms of their proposal and acceptance; whereupon the contract and lease was immediately tendered to French, who accepted the same.

May 26, 1869, Gardner wrote to the Secretary of the Treasury protesting against that proceeding, and alleging that it was only a part of a matured plan to give the contract to French at all hazards; and that the contract and lease which had been sent him was not in accordance with the proposal which had been accepted.

The Secretary referred the papers to the Solicitor of the Treasury on June 1, 1869, for his opinion, whether the contract was in accordance with the proposals of the Rockport Granite Company.

On June 9, 1869, Solicitor Banfield reports, in substance, that the contract and lease tendered to the Rockport Granite Company were not in accordance with their proposal, and the acceptance of the government or the circular which Mullett has issued. Thereupon, instead of executing the contract with the Rockport company, the Supervising Architect issues new circulars of invitations of proposals, embracing conditions which, it was very apparent, no granite company which was in good faith carrying on a business would be willing to accept, requiring an absolute lease of the quarry, with all its machinery and attachments of every nature and description, and providing that the government *might take stone for any other purpose than this building*. The contract already executed by French was in this manner annulled or superseded.

In answer to the second circular, the "Rockport Granite Company" offered to lease a quarry, (not their large one,) for thirty-five cents per ton bankage and wharfage, and to furnish the granite for the building, as sworn to by Mr. Gardner, for forty cents per foot in addition to the royalty of thirty-five cents per ton with an increase of half a cent per foot for blocks measuring more than twenty cubic feet. At the same time French, for the "Cape Ann Granite Company," proposed to lease a quarry at twenty-five cents per ton, and to quarry and deliver the stone for the *foundation of the building*, for thirty-nine and three-quarter cents per foot in addition to the royalty of one cent per foot increase for blocks measuring more than twenty cubic feet. Up to this time it appears that Mr. French had not completed the purchase of his quarry or organized any company whatever, although he had been making proposals, and had even executed a contract with the government as "the Cape Ann Granite Company," for he swears himself that the organization of the "Cape Ann Granite Company" was not made until the 6th of July, 1869, and on the 13th of July, 1869, Mullett directed a contract to be made with French, or the "Cape Ann Granite Company," precisely in accordance with his lease, which was done. This was for the *foundation* of the building only. Now, on the 26th of October, without any further advertisement, circular, letter, or other notice whatsoever, and without any opportunity for competition, the Supervising Architect of the Treasury directed that a contract be made with the "Cape Ann company" for the granite for the superstructure of the entire building, and the cutting of the same at fifty-five cents per foot, for stone of less than twenty cubic feet, and one cent additional for the stone more than twenty feet, with twenty-five cents per ton additional bankage and

wharfage, with an agreement on the part of the government to pay the entire expense of cost of work and working, dressing, insuring, and boxing the stone, with fifteen per cent. additional thereto—precisely similar in terms to the contract for furnishing the granite for the New York building.

By reason of the difficulty in ascertaining the cost of the granite in the rough, the size being nowhere limited, and the fact that the working and dressing of it is to be done by men almost wholly under the control of the contractor, and the doubtful construction of the contract, the committee find it impossible to satisfactorily determine the probable cost of the building when completed. The Supervising Architect estimates that it will be about \$1,800,000; but the confidence of the committee in his calculations was shaken on discovering that he did not even know the contract price of the foundation stone. When first interrogated on this point he replied that "the price was *about* forty-five cents per cubic foot;" afterward, that "the granite which he got for forty-five cents per cubic foot is from sixty-five to seventy-five cents" in Boston; and, finally, that he finds, on "referring to the contract, that the cost is *thirty-nine and three-quarter cents per cubic foot, with a royalty of twenty-five cents per ton.*" It is submitted that the estimates of an officer who exhibits so little familiarity with contracts made under his supervision should be received with great allowance. The committee is, therefore, unable to satisfy itself as to the cost of the building, and indisposed to report the latter contract as a favorable one, when so much is left to uncertainty and final adjustment.

Especial attention is invited to that feature of the contracts made at New York and Boston, which permits contractors to employ men by the day to work and dress the stone. No sufficient protection of the interests of the government seems to exist. The men are employed and discharged at the discretion of the contractor. By the interpretation of the contractor at Boston, which the committee cannot dispute from the letter of the contract, not even the number of hours the men shall work can be regulated by the government. He answers this point as follows:

Q. Suppose they should work but six or eight hours a day, could you charge a day's work for that and charge fifteen per cent. on it?—A. Yes sir; because there is no arrangement on the subject that I know of.

Q. If these men should work but six hours a day, is there no check upon that by the government or the government officers?—A. There is nothing stated in the contract.

The government thus seems to be in a measure at the mercy of the contractor. It pays the wages of the men employed by him. He charges up and receives in addition a sum equal to fifteen per cent. of the entire cost. If a workman shall occupy two days in performing a job that ought to be done in one, he realizes a profit on two days' work instead of one. The most favorable opportunity for connivance is thus created, and every inducement exists to favor the contractor and enlarge his profits. No precaution in this regard is provided for in either of the contracts, beyond the covenant authorizing the government to employ an agent or agents, "*who shall take all necessary account*" of the cost and expense of preparing the stone for places in the buildings. Whether the rates of wages are fixed by these agents does not satisfactorily appear. No reliable proof was brought out in regard to the Dix Island contract.

In Boston the superintendent of construction says that the rates are fixed by the government; the contractor says, "*we pay the ordinary rates.*" The committee find that, under the provision alluded to above, time-keepers were employed to keep the pay-roll of the employés, and

certify the same to the disbursing officer. But this necessary check was not resorted to in the case of the Boston contract until November, 1869, although the work was commenced in the month of July preceding.

Mr. French, the contractor, testifies that his clerk, Mr. Bennett, kept the tally until within three or four weeks of the time of his examination before the committee, which occurred January 3, 1870. At that time over one hundred men were employed in working and dressing the stone, some of whom received five dollars and upward per day; and thus it seems that this large number of hands was paid out of the treasury for four or five months on accounts kept by the agent of the contractor, who was not even indirectly responsible to the government for mistakes or dishonest practices, if any were committed. The looseness of this transaction cannot be too severely criticised under any circumstances; but it becomes exceedingly glaring in view of the fact that the reputation of the contractor is so questionable as to compel one witness to swear "*that if you were going to have business with him you should have your wits about you,*" and to induce others to give evasive answers to questions touching this point.

The reasons given by the Supervising Architect (to which a brief allusion has hereinbefore been made) for ingrafting into these contracts the feature now under discussion, are not satisfactory to the committee. In reply to his unsupported assertion that workmen will labor only eight hours per day for the government, we quote from the testimony of Mr. Smith, assistant superintendent at New York, who says, "*that nobody in New York would try that on, (the eight hour arrangement;) we could not afford to lose two hours every day.*" And in reply to the other suggestions that it is impossible for the government to employ hands without offering extraordinary inducements, the committee say that no evidence of any difficulty of this kind was developed by their investigation. But the most satisfactory reply of all that has yet been given to these reasons, is the one furnished by the Supervising Architect himself, viz: that New York and Boston are the only places where a contractor is made a medium in the employment of hands in order to secure their services readily, and to induce them to work ten hours a day. The committee find that New York and Boston are not necessarily exceptions to the general rule.

From the testimony, it is evident that the Secretary did not personally investigate the matter, but simply ratified what was done on the representations of his subordinate. Indeed, the testimony of the two superintendents—the one at New York, the other at Boston—who had immediate control of the work, and are therefore presumed to have been familiar with the interests of the government in relation to it, *shows that they were not consulted about the respective contracts* until after their terms had been agreed upon, the contract in the case of New York signed, and that in the case of Boston prepared and sent to the superintendent for execution. All this seems to have been done on the judgment of the Supervising Architect.

The committee is painfully impressed with the insecurity and danger to the government in allowing its money to the extent of many millions—how many, no one, not even the Architect himself, can tell—to be thus lavished upon the erection of public buildings, without any control or limit, either as to *design* or *amount*, except the irresponsible discretion of a subordinate employé of the Treasury Department.

The contradictory and uncertain manner in which that discretion may and has been exercised can be gathered from the testimony and the reports of the Supervising Architect himself. Indeed, were he ever so wise

and prudent, with the large number and variety of buildings in all parts of the country, it would be impossible that one man here in the city of Washington could manage and direct their construction with economy.

The same parties who have the contract to furnish and dress the stone for the New York post office, in the year 1855 made a contract with the Secretary of the Treasury to furnish the granite, *from the same quarry*, for the south wing of the Treasury extension. By the terms of that contract they were to furnish the granite for *forty-four cents* per cubic foot, *including freight and delivery* in Washington. By the terms of this contract they are to receive *sixty-five cents* per cubic foot, and twenty-five cents per ton (of eleven feet) for delivering in New York; and the government pays for the *insurance* and *boxing*, with fifteen per cent. added besides. In the contract for the Treasury granite there were some provisions about progressive increase of price for blocks of stone beyond a certain size, somewhat similar to provisions in this contract. Under those provisions it was estimated that a block eighteen feet eight inches long by seventeen feet six inches wide and one foot nine inches thick amounted to \$34,104 57.

By the terms of the contracts for the granite for both the New York and Boston buildings the committee are not certain whether the same will not be finally construed so as to require the government to pay for *quarrying*, (with fifteen per cent. added,) in addition to paying for the stone. It is very evident that all other expenses are included in "the full cost and expense of *working*, dressing, boxing, insuring, &c."

The *dressing* of the granite at the *quarries* is clearly in the interest of the contractors in other respects; it saves the transportation of a large amount of stone. By the terms of their proposals they were bound to *deliver* the stone. Why, then, the government should pay for *insurance* and *boxing*, and fifteen per cent. besides, the committee cannot understand.

The committee learn from the testimony of Mr. Hulburd, superintendent at New York, that the total cost of the granite for the building there, as estimated by the contractor, will amount to a million and a quarter to a million and a half dollars. Averaging this, it makes the cost of granite \$1,375,000; and taking the Architect's estimate for the Boston building as a basis, it would make the cutting of this granite cost \$1,039,638, and upon this sum the contractors are to receive a profit of fifteen per cent., or \$155,945. The cutting of granite for the Boston building is estimated by the Architect at \$444,739, and the contractor's profit on that is to be \$66,710; MAKING A TOTAL OF \$222,645 PAID AS COMMISSIONS BY THE GOVERNMENT ON THE PURCHASE OF MATERIAL, THE INSURING OF ITS FREIGHT, AND ON THE LABOR OF MEN WHOSE WAGES ARE PAID OUT OF ITS OWN TREASURY, and to contractors who do not invest a dollar in the employment of said men, whose wages are paid directly to them by an agent of the government.

In the case of Colonel French, of the Cape Ann Granite Company, J. G. Batterson, an expert in the granite trade, testifies as follows:

Q. You think that the stone taken out of that quarry now is really developing the work for the quarry?—A. Certainly, sir; and I presume that if the proposition had been made in the first place to the owners of the quarry to this effect, "Gentlemen, we cannot trade with you upon any other terms than these: we will take that quarry from you and give you nothing for the stone; but we will quarry the stone and erect that building at our own expense," I think the government would have had the privilege. That would not do for some quarries that are already developed, but only for a new, undeveloped quarry.

The following statements of some of the witnesses, which apparently

conflict, are put side by side, that the House may draw its own conclusion of the *truths* of the matters involved in these contradictions.

Testimony of A. B. Mullett.

In answer to the chairman * * * *
Mayor Hall said he was in favor of a change, but that the opposition to it in the board of aldermen was so great that he was satisfied it could not be made. I reported this result to the Secretary of the Treasury, who soon afterward visited New York himself, and, on his return, directed me to proceed and prepare plans for the work. I did not prepare any plans until I was instructed to do so by the Secretary.

* * * * * It is impossible for me to tell, with the large amount of business under my supervision, how many contracts have been made, or the exact extent and term of them all. I advertise under the direction of the Secretary of the Treasury, for contracts for excavating, cement, rubble stone, and granite for the basement. Since the appointment of the superintendent, he has advertised under me, and I have given him the instructions I received from the Secretary of the Treasury.

Q. Is any architect employed in New York City?—A. No, sir.

Q. Were the plans adopted by you, and approved by the Secretary of the Treasury, such as were prepared by architects of New York City?—A. No, sir.

Q. You disagreed with those architects?—A. I did, very decidedly. *And the Postmaster General and Secretary of the Treasury, after examining the case, concurred in my objections and approved my plans.* I have also taken occasion to submit my plans to several postmasters, at other points, from time to time, as I have met them, and all to whom I have submitted them approved them.

Q. State the difference in the size of the New York City post office building, according to the two plans.—A. Both plans covered substantially the same area, except that by the plan on which the building is being constructed, it sits back twenty-five feet upon the Park Row front. I believe the present plan covers less feet upon the Park Row front than the other does.

Q. In other words, the building is twenty-five feet shorter by your plan than by the other?—A. Yes, sir.

Q. How many buildings are you engaged in the construction of at present?—A. I cannot tell without referring to my report. I think upwards of twenty, in different parts of the United States.

Q. Do you visit personally all the places where you are erecting buildings?—A. Not all of them. I have not visited those in Oregon, but I have visited all the rest. Where I cannot go myself, my assistant visits them; I have been unable to visit any but the most important ones this year.

Q. Did you make the contracts for all of

Testimony of Hon. George S. Boutwell, Secretary of the Treasury.

By the CHAIRMAN:

Question. Have you ever examined personally the plans for the New York post office prepared by the commission created by an act of Congress?—Answer. *Not as I recollect.*

Q. Did the judicial or postal officers of the government make any complaint as to the plans prepared by the commission under an act of Congress?—A. *Not that I recollect.*

Q. Did you direct Mr. Mullett to prepare new plans for that building?—A. *I have no recollection of doing so.*

Q. Have you exercised any, and if so, how much, personal supervision and inspection of materials proposed to be used, of bids or proposals or contracts, in reference to that building?—A. I recollect looking at specimens of granite in Mr. Mullett's room, but I think not with reference to New York post office. Mr. Mullett advised that the proposals were very favorable to the government, and such was my opinion.
* * * * *

Q. Did you direct Mr. Mullett or any other agent to make contracts with particular or named parties in connection with the Boston post office building?—A. I ratified the contracts after they were prepared, but I gave no instructions previously. I was consulted as to the terms by Mr. Mullett.

Q. Have you authorized the making of any contracts for either the New York or Boston post offices for material or labor without advertisement or public notice of any kind?—A. I ratified the contracts that were made in the belief that they were the most favorable that could be made for the government. I presume that Mr. Mullett informed me of the terms of the proposed contracts before they were made, and that I approved the proposition.

Q. Did you exercise any personal supervision over the contracts or other matter in connection with the construction of the Boston building?—A. Mr. Mullett and Mr. Bryant reported from time to time, and I ratified what was done. I have not supervised the proceedings personally, but I have endeavored to make myself acquainted with what was done.

Testimony of Hon. J. A. J. Creswell, Postmaster General.

By the CHAIRMAN:

Question. Have you ever personally examined the plans for the New York post office, prepared by the commission created by an act of Congress for that purpose, or compared them with the plans of the Supervising Architect of the Treasury?—Answer. *I have not.*

them?—A. The contracts are made through advertisements by the superintendent, and are submitted to the Secretary in every case, with the bids received.

Q. Is it the universal custom to advertise for contracts?—A. Yes, sir, except in exceptional cases; *I mean cases in which the cost of advertising would frequently be more than the cost of the work itself, in which cases it is not usual to advertise. But all contracts of any importance are advertised; and I may say that I have never yet recommended the awarding of a contract to any but the lowest bidder.*

Q. Have you made an estimate as to how much the Boston post office will cost?—A. Yes, sir; we made a pretty careful estimate, which, I think, is substantially correct. It amounted to a little over \$1,800,000, and I know of no reason now why that estimate is not substantially correct. That structure is being built of granite.

Q. Did you advertise for the cutting of the stone for that building?—A. No, sir; *we are doing that work by the day.*

Q. Did you not say a few moments ago that you were doing the stone-cutting for the New York and Boston post offices by the day?—A. We are doing it by the day. I said two or three times yesterday, that *Mr. Dixon was getting fifteen per cent. on the work done by him; the stones being cut under our own superintendence. It would have been almost impossible to have gone ourselves and collected stone-cutters, unless we offered additional inducements, which would have amounted to more than fifteen per cent.*

Q. Were the contracts in Boston made upon advertisement?—A. All except for the granite work. In respect to that, the Secretary found that there was a combination to put up the price of granite, and leased a quarry upon more favorable terms than the material could have been otherwise obtained.

Q. Of whom did he lease the quarry?—A. Of the Cape Ann Granite Company. Colonel French is the president, I think.

Q. On whose recommendation did the Secretary lease that quarry?—A. It was the result of an investigation made by the superintendent there—a result in which I, myself, concurred. I do not remember who was the first to suggest it. Several quarries were examined.

Q. You recommended it to the Secretary?—A. I did. But the Secretary, in this case, made a personal investigation in Boston. He took the proposed lease with him, and made a very careful inquiry into the whole subject.

By Mr. BOYD:

Q. Who is responsible for commencing work on the New York post office building?—A. *The Secretary of the Treasury sent me written instructions.*

I examined and approved Mr. Mullett's plans, but never compared them with the plans prepared by the commission.

Testimony of Hon. Calvin T. Hulburd.

* * * * *

By the CHAIRMAN:

Question. State whether you advised the making of the granite contract at New York?—Answer. I did not; I had no knowledge of it until it was done.

* * * * *

Q. Were there any proposals for cutting the stone?—A. *Not to my knowledge.*

* * * * *

Q. Have you any knowledge of the cost of cutting the granite for the building?—A. I have not any knowledge; I have an opinion. I once asked the contractor what the amount of the granite contract would be if fulfilled, and he answered from a million and a quarter to a million and a half of dollars.

Q. At whose suggestion?—A. I do not know; the Secretary came back from New York, and sent for me, and gave me written instructions, without any solicitations on my part.

Q. Did you not bring the matter to his notice before you received your instructions?—A. As a matter of course; I took my appropriation-book and asked instructions from the Secretary of the Treasury.

Q. Did you then suggest to him the propriety of beginning the erection of the building?—A. Certainly.

Q. Then you are responsible for the beginning of the work upon the building?—A. You may put it as you please.

Q. I understand you to say that you are one of the first persons who suggested the commencement of the work?—A. I did not say anything of the kind; the Secretary will tell you who recommended him to commence, if you ask him.

Q. You made the suggestion to the Secretary?—A. I ask for orders in regard to every building.

Q. Did you personally suggest to the Secretary of the Treasury the necessity or propriety of beginning the erection of the New York post office building, before you received orders from him to do so?—A. I took my appropriation ledger, and asked instructions as to when I should commence the buildings.

Q. I mean in that particular case?—A. Of course I suggested to the Secretary the propriety of beginning the work; the orders came, however, when I had no expectation of receiving them; they came just after the Secretary's return from New York.

Q. Neither you nor the Secretary had any estimate of the cost of that building when you were ordered to begin it?—A. Certainly not.

By Mr. FITCH:

Q. I understand you to say that the granite contracted for is rough granite?—A. Yes, sir; we are cutting it on the same terms as for the building in New York, allowing to the contractor *fifteen per cent. on the actual cost of cutting. In that way we get ten hours' work done a day, and save at least five per cent. on the cost to us of having the work done by days' work.*

* * * * *

By the CHAIRMAN:

Q. There is no difficulty, then, in making a contract for the finished building at the same time the contract is made for the foundation?—A. *There is no difficulty in doing so, if it were deemed advisable.*

Q. Is not the contractor just as likely to perform his contract, if it is made at that time, as he is if it is not made until afterward?—A. I do not know; it depends upon whether labor or material go up or down in the mean time. *We are doing all the work of the government by the day.*

Q. Do you do your stone-cutting by the day?—A. Yes, sir; we are doing that by the day; Mr. Dixon is cutting it in one place, and Col. French in another.

Testimony of J. T. Smith, assistant superintendent, New York post office building.

By Mr. TWICHELL:

* * * * *

Question. And you are exercising your best judgment in employing your best men and making them work from seven in the morning till dark?—Answer. Yes, sir. There never has been any question about eight hours' work. Most of the hands are old hands of mine who have been working for me steadily along. When I came there I did not let them know but that I had a contract. In fact, I gave them to understand that I had, in order to have them work the same as outside.

Q. You do not recognize the eight-hour arrangement here?—A. No, sir; nobody in New York would try that on. If they did, we would simply pay them by the hour, and they would have to work ten hours anyway. We could not afford to lose two hours every day.

Testimony of G. T. Byrant, superintendent of Boston post office building.

By Mr. TWICHELL:

Question. Do you require the men to work any given number of hours per day?—Answer. Yes.

Q. Where is Mr. Dixon?—A. At Dix Island.

Q. Do you buy your stone of Mr. Dixon?—A. Yes, sir.

Q. And Mr. Dixon contracts to have the stone cut as you want it?—A. He has the stone cut according to the standard given him.

Q. Then he agrees to have the stone cut as you want it, and to have it done by a given time?—A. Yes, sir.

Q. And is not that a contract?—A. I have answered that question three or four times already.

Q. I want to know, then, what you mean by saying that the work for the government is all done by the days' work?—A. I stated emphatically yesterday, that Mr. Dixon had a contract to cut the stone by the day, and that he was allowed fifteen per cent. upon the actual cost of cutting it. Our custom is to do the work by the day, and when I so stated, I instanced this as an exception; the only exception besides Boston.

Q. Did you not say, a few moments ago, that you were doing the stone-cutting for the New York and Boston post offices by the day?—A. We are doing it by the day; I said two or three times yesterday, that Mr. Dixon was getting fifteen per cent. on the work done by him; the stones being cut under own superintendence. It would have been almost impossible to have gone ourselves and collected stone-cutters, unless we offered additional inducements, which would have amounted to more than fifteen per cent.

sir. That was one of the points claimed by the department as an advantage in this arrangement, that the men would work ten hours a day; whereas, if the government hired them in its own name, they would only work eight hours.

By the CHAIRMAN:

Q. Do you mean to say that the government requires men to work there ten hours a day?—A. That is to say, that Mr. French requires it and exacts it.

Q. Could not the government let the contract to cut stone at so much per foot, or at so much per quantity, as individuals do?—A. Undoubtedly.

Testimony of Col. French, contractor.

* * * * *

By Mr. TWICHELL:

Question. What number of hours do these men work?—Answer. Ten hours.

Q. Does Mr. Bryant, the superintendent, require that they shall work ten hours?—A. I do not know that Mr. Bryant has anything to do with them. I require them to work ten hours. Quarrymen work eleven hours when they can. They work as early as they can see in the morning, and as long as they can see in the evening. The rule of working on the Cape is: for quarrymen, eleven hours; and for stonecutters, ten hours.

Q. If you have a foreman to look after these men, is his pay charged to the government?—A. No, sir. The immediate foremen of the gangs are charged to the government; but I have beyond them a foreman who has general supervision of the cutting, whom I pay and whom the government does not pay.

Q. These foremen of the gangs are working men, are they not?—A. Yes, sir.

Q. Does anybody get pay on the pay-roll on which you get the fifteen per cent. except those who work ten hours a day?—A. No, sir; none other. They do not work for the government; they work for me.

Q. If you have a man working on the government work and on paying stone, dividing his time, no part of that outside of the government work is charged on which you get the fifteen per cent.?—A. No, sir. There is no man on the pay-roll who is not actually engaged on this job.

By the CHAIRMAN:

Q. That includes the laborers, the hammerers, the cutters and the man who lays out the work for them?—A. Yes, sir. The general foreman, who has charge of the whole thing, does not get pay from the government. I employ a man who is an accomplished stonecutter and who has entire supervision of this job. Him I pay myself. He does not go upon the government pay-roll. The only foremen who go upon the government pay-roll are foremen of gangs, who get one or two dollars a day over the ordinary price of stonecutters, and who do an entire day's work themselves.

By Mr. TWICHELL:

Q. Suppose the men should only want to work eight hours a day, can you by any arrangement enforce ten hours work?—A. It is my contract; the government has nothing to do with it.

Q. Is there any arrangement between you and the government by which they are to work ten or eleven hours a day?—A. Nothing was said about it. I have liberty, as I understand, to work the men as many hours as I can get them to work.

Q. Suppose they should work but six or eight hours a day, could you charge a day's work for that and charge fifteen per cent. on it?—A. Yes, sir; because there is no arrangement on the subject that I know of.

Q. If these men should work but six hours a day, is there no check upon that by the government or the government officers?—A. There is nothing stated in the contract.

A. * * * * It would be almost a physical impossibility to construct a building at all under those plans. I do not believe there was any intention on their part that the building should be constructed from them. Indeed, I understand that some of them have said that there was no such intention.

Q. Who has said that?—A. I understand that Richard M. Hunt said he would never have signed those plans had he known that they were to be submitted to an architect.

Q. Who was your informer?—A. I cannot say; I understood that he said so. *

* * I think you will find no person, not prejudiced in the matter, who will say that any building can be constructed on those New York plans.

Q. Did the committee understand you to say that, in your judgment, these New York plans were drawn for the purpose of defrauding the government?—A. I did not say exactly that; I do believe, however, that that was the purpose.

Q. Will you state any other reasons than those you have already mentioned which induce you to believe so?—A. I have other reasons, which I will give at some future time. I desire an opportunity first to refresh my memory.

Q. Can you state any other reason now?—A. Yes; a gentleman told me that he was promised a large contract in connection with the building.

Q. Who was that?—A. Mr. Hoyt, of Boston.

Q. Who did he say promised it to him?—A. He did not say. What he said was, that he had lost a large contract by the work coming into my hands.

Q. Do you know of any legislation of Congress that could give those New York architects any control over that building?—A. I believe that the bill which was reported would have given them a very decided control over the building.

Q. But do you not know that that bill

H. Rep. 58—?

Testimony of Richard M. Hunt.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside in New York, No. 49 West Thirty-fifth street; I am an architect.

Q. How long has that been your profession?—A. Twenty-five years, studying and practicing; I have practiced in New York since 1855-'56.

Q. Are you one of the architects who competed for plans of the post office and court-house building in this city, by direction of the commissioners?—A. Yes, sir; about the time of the competition I was appointed to go out as one of the architectural jury of the Paris Exposition; I had been engaged as one of the committee to assist Mr. Derby, in the American department of the French exhibition; I finally went out as a member of that jury, and left a sketch of the post office building in my office, to be carried out by my men; that sketch was carried out during my absence.

Q. Are you one of the five architects who unitedly produced the plans and specifications which were submitted to Congress by the commissioners?—A. Yes, sir.

Q. State whether you personally assisted in the making of those plans?—A. I did.

Q. State whether those plans and specifications were made by the architects in good faith so far as you were concerned, and so far as your knowledge extends?—A. Perfectly.

Q. Did you ever state to any person anything to the contrary?—A. Never.

Q. Did you ever tell any person that you never would have signed those plans and specifications if you had supposed that they would have been submitted to an architect?—A. Never.

was not reported until some time afterward?—A. It was promised by the commission. I only say, that when men who are competent architects make a plan for the construction of a building that is an impossibility or an absurdity on the very face of it, it is fair ground for believing their intention is to perpetrate a fraud, either through fraudulent contracts or otherwise.

Q. What other absurdity was there in those plans, except the fifty-eight feet girders?—A. I have stated them in my report.

Q. Can you not state anything else now?—A. Having stated these matters fully in my report, and that being a matter of record, I prefer to refer to that. I remember that I stated that these plans required wrought-iron partitions, and I think no man who is a competent architect, acting in good faith, would require wrought-iron partitions where he was not compelled to. The doors and the window-blinds were to be of wrought-iron; and, indeed, the whole object of the specifications seemed to me to be to multiply, to the utmost possible extent, the quantity of iron work in the building; and I cannot conceive of any other object in presenting such plans and specifications, except to defraud somebody.

By Mr. TWICHELL:

Q. Would not those plans necessarily require to be changed before the completion of the building?—A. Certainly; and my belief is that that was their intention. I do not believe any architect can be found who would deliberately construct such a building with girders of the span given there. So far as I recollect, there are only four rolling-mills in the country that make rolled beams, the largest of which is fifteen-inch; and I will venture to say there is no one you could get to make them and guarantee their safety.

Q. State whether, from all the reflection you have had upon the subject since, you are still of the opinion that the building could have been constructed in accordance with those plans without any difficulty?—A. I think it could.

Q. Have you any doubt of it?—A. I have no reason to doubt it in the slightest. There may have been in the plan some omission of a column, or something of that kind; but so far as I recollect the plans, I have not the slightest doubt but that they could be carried out. In fact, I know they could. Complaint has been made that it is not practicable to use girders so large as some of those contemplated in the plan. They can be used. There is not the slightest doubt of it. Girders of that size have been built before, and can be built again. To say that the plan could not be so arranged as not to necessitate those girders, is one thing; but this part of the plan was dictated to us by the postmaster, who had control of that part of the plan of the building. It was merely the question, "Can that be done?" "Well, it can be done." "Then it must be done." That was the order. We were directed to make that open passage-way by Mr. Kelly, the postmaster, who had special charge of that part of the building.

By Mr. ADAMS:

Q. Would you have been willing to take the contract for the building at the price indicated in the estimates made by the five architects?—A. I would, if I had been in the habit of making contracts. But I would not take a contract for anything. In taking a contract the architect goes beyond his sphere. But I believe that to have been an honest estimate, and I believe that parties would have been willing to take the work at that estimate.

Q. You believe that there are plenty of parties who would have taken the contract at that estimate?—A. Yes, I believe so. It was an honest, fair, *bona fide* estimate.

Q. Do you usually make an estimate of the cost for a large building?—A. Not always, but as a general thing. It is quite exceptional when we do not.

By the CHAIRMAN:

Q. Do you know of a man named Hoyt, of Boston, in any connection with this building?—A. I do not.

Testimony of James Renwick.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside at 28 University Place, in New York City. I am an architect.

Q. How long have you been an architect?—A. About thirty years.

Q. How much of that time have you been in New York City?—A. For the most of the time. I have put up buildings all over the

country; but have very seldom left the city.

Q. Are you one of the five architects who united in those plans that were presented to Congress by the commissioners; and did you assist in making the estimates under those plans?—A. Yes, sir.

Q. State what instructions were given you in reference to the construction of a drive-way for the reception of the mails.—

A. That was made a *sine qua non* by the committee. We proposed, on account of economy, to put a row of columns through the center of this drive-way, but the committee insisted on having the whole of it open. Then it became a question of expense, merely. The bridging of fifty, or a hundred, or two hundred feet with iron, is a mere matter of expense. Iron beams have been built sufficiently large to carry a train of cars over a space of four hundred feet. The Menai Strait bridge is a hollow iron beam; and the bridge across the St. Lawrence is of the same kind. A compound girder, such as we then proposed, is a tubular bridge. We proposed to make those girders tubular; that is, there were to be two diaphragms, the bottom and the lower flange; they were to be four or five feet deep, and to be connected together on each story by iron truss frames of sufficient strength to carry a railroad train across them without difficulty. They were to be connected by wrought-iron ties and bridge frames, which would make the whole thing one perfect bridge from top to bottom. I have done some work in wood, of forty-five feet span, for Cozzens's Hotel, West Point; and builders are doing equally difficult things constantly. It is done in many hotels, where they have a large parlor built and smaller rooms above, in order to support the partitions and floors. That is all we had to do here.

By Mr. TWICHELL:

Q. Do you agree with Mr. Hunt, that you would not have left this drive-way open the whole width of fifty-seven feet but for the directions of the postmaster?—A. I think myself that if we had put a row of columns through the center we could have saved money, because we could then have made those beams so much smaller.

Q. Would it not have added to the safety of the structure?—A. I do not think that the safety of the structure was in question at all; it was simply a question of expense and convenience, not of safety or stability. If you should come to me and insist upon having me put an iron beam under your roof of a hundred feet span, I would do it, but you would have to pay for it.

Q. The question is, whether a girder of fifty-seven feet span is safe for that structure.—A. Certainly; perfectly safe.

Q. How would you have supported it under the ends but for the requirements of the postmaster?—A. We would, as a matter of economy, have made use of smaller beams. I thought that those large beams would cost a great deal of money.

Q. Then would you be surprised if an architect should say those plans were perfectly impracticable as they are?—A. Yes, sir; I would be very much surprised indeed; the working drawings were not made; we were not requested to make working drawings; to do so would have taken four times as much time as we had; we make a working drawing of every different ornament about the building; Mr. Le Brun prepared a full and complete set of specifications.

Testimony of Paul Schulze.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside at 108 Rivington street, New York; my office is at 93 Liberty street; I am an architect by profession; I have followed that profession in the city of New York since 1858, and in the United States since 1849; I have studied architecture since 1841; I have been concerned on government buildings before I came here.

Q. Are you one of the architects who made the plans for the New York post office and court-house, which were presented to Congress by the commissioners?—A. Yes, sir.

Q. State whether those plans were made in good faith.—A. Yes, sir; so far as I know, they were.

Testimony of N. Le Brun.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside in Winthrop Place, New York City. I am an architect by profession.

Q. Are you one of the five architects who together prepared the plans for the New York post office and court-house?—A. I am.

Q. Also one of the original competitors for the design of the building?—A. Yes, sir; my plan was adopted as deserving of a premium, along with the other four, and yet none of them was exactly what was wanted.

* * * * *

Q. Have you any doubt as to the feasibility of erecting a building according to those plans and specifications?—A. Not the least. We were told to make that northern passage or drive-way as wide as you see in the plans; and it became merely a matter of calculation with us to determine how long and strong to make the girders so as to span the space—how much it would cost, &c. The span of the girders is not fifty-eight feet, as has been stated. *There are five girders. The two end ones, which support the greatest amount of weight, are not fifty-eight feet span; they are, I think, forty-two feet.* There are five on each side, making ten in all, of which the two extreme ones support the walls. There are three intervening ones—one on each pier.

Q. How large are those girders?—A. They were calculated to be four feet deep—tubular or compound girders. They are not specified in this outline specification. This we called merely an outline specification, not a detailed one; this was all we were called upon to give. In the matter of the girders, we stated that all the girders for the support of the floor were to be made of railroad iron, properly framed and bolted together, so as to give ample strength to every part of the building.

Q. Did you assist in getting up the estimates?—A. I did.

Q. State whether they were carefully and conscientiously prepared.—A. Mr. Renwick, Mr. Hunt, and myself made the estimates. While making them we had many meetings, extending over ten days. We went over the estimates three times. Mr. Hunt went over a part of them with us twice, and Mr. Renwick and myself three times, before we had satisfied ourselves that they were within bounds.

Q. State whether those estimates are large enough.—A. In my opinion they are amply large enough.

Testimony of John Corregia.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside at 131 Schermerhorn street, Brooklyn; I am an architect; have been in the business about eighteen years.

Q. Are you one of the five architects who united in producing this plan?—A. Yes, sir.

Q. Have you any doubt as to the practicability of the plan determined upon by you five gentlemen?—A. None whatever.

Q. Do you agree with the other four gentlemen who have certified here as to the estimates based upon that plan?—A. I do.

Q. Have you any doubt that the building could be constructed for the amount estimated?—A. I have no doubt of it whatever.

* * * * *

Q. How about those girders to which objection has been made; is there any practical difficulty about them?—A. None whatever. There has been a good deal said about those girders, but they are really a very small affair. Any one who would hesitate at a fifty-foot girder has certainly never had much practice as an architect or engineer. A forty-five foot span is really very small. You may find wooden spans in this city as much as thirty-three feet wide. I believe that some of the spans in the new court-house are thirty-five feet wide. There is no trouble whatever in making spans one hundred or one hundred and fifty feet wide with iron.

Q. Can you point the committee to any girders of the same size, supporting any considerable weight?—A. I refer you to the new court-house in this city.

By Mr. FITCH:

Q. In this report made by you to Mr. McCulloch, under date of *March 30, 1868*, you make an itemized estimate of the cost of the building upon the plans you proposed at a little above two million dollars. I understand you to say that the cause of that estimate being too low was because the quantities were erroneously furnished you. Did you examine the work of your computer in that time?—A. I did not; it was impossible, with the amount of work upon my hands; I could not examine particularly into all those estimates if I were to work constantly day and night; I had, at that time, *entire confidence in the estimates of my computer.*

Q. Can you state to the committee in what particulars his computations were inaccurate?—A. I can only say that I found generally that his computations were incorrect. Since his removal he has slandered me in every conceivable manner, and you will not doubt that I have not now any confidence in him.

* * * * * My computer gave me false quantities, and I do not think I ought to be held responsible for false statements, intentionally made to me by him. I said then, and I say now, that a building constructed on the plan adopted will cost much less than on the plan of the New York architects.

Q. That is the largest one you know?—
A. It is the largest one I think of at this moment.

Testimony of B. Oertley.

By the CHAIRMAN:

* * * * *
Question. Is it true, as charged by Mr. Mullett, that you deceived him in making your computations?—Answer. It is not so.

Q. And he charges that you did it intentionally?—A. That is a falsehood.

Q. Were those computations honestly made, and as correctly as they could be made under the circumstances?—A. They were.

Q. Do you think your computation of quantities was accurate?—A. As accurate as the plans would permit.

Q. Did you attempt to mislead Mr. Mullett?—A. I certainly did not intend to, in any manner.

Q. Are you the same Mr. Oertley who was employed as computer and measurer upon the extension of the Treasury some eight or ten years ago?—A. Yes, sir; I was the first sworn measurer, and retained the place until I resigned. If you will allow me to make a statement, you will find that in the estimate which I prepared for the New York post office building, based upon the plans of the five architects, they coincide very nearly with the estimates of the architects themselves, there being only a few thousand dollars difference. Certainly that fact shows that I had not the slightest intention to mislead the office of Mr. Mullett.

* * * * *
By Mr. BOYD:

Q. Did you leave Mr. Mullett's office, or were you discharged?—A. I was removed as sworn measurer. When I resigned, in October 1868, I resigned as assistant supervising architect. They then made the technical point that I was still sworn measurer in the Treasury extension, although I never had received a copper's pay for that part of my duty. In March, 1869, to my very great astonishment, I read in the newspapers that I had been removed as sworn measurer of the Treasury Department. I had supposed myself out of that office a great while before.

Q. Did Mr. Mullett ever charge you, in your presence or to your face, with making false computations?—A. He never did.

* * * * *
A. Mr. Mullett's report for 1869, page 27, gives a table of the cost of buildings per cubic foot, assuming the value of gold at thirty-three per cent. premium; from this table the average cost of buildings of class No. 1, or first class, erected under him, is found to be thirty-eight cents gold, or with thirty-three per centum premium, (the assumption of the table,) fifty and one-half cents currency per cubic foot. Now there were rather less than 5,500,000 cubic feet in

the building proposed by the five architects, and the same ought to cost, according to Mr. Mullett's own data from his own constructions, but \$2,777,500, or \$1,100,000 less than what he now estimates its cost to be. Taking into account the fact known to every professional man, that the cost per cubic foot of similar constructions *decreases* with the size of the buildings, and that the prices of his table are based on buildings much smaller than the one under consideration, the above amount must be considerably lessened, and will leave a result agreeing reasonably with my figures, and not with his of December 29, 1869.

I am very far from claiming perfect accuracy for figures made in extreme hurry, on no or incomplete data and plans, yet I hope to have shown conclusively that my estimates were made fairly, in good faith, and with a reasonable degree of accuracy, and I will be pardoned for characterizing the allegation of my having wilfully manipulated the estimates for deception as an unmitigated falsehood.

It seems very plain to the committee that these granite contracts, in connection with the other expenditures made upon the buildings under consideration, very greatly exceed, in both cases, the amounts appropriated when the contracts and expenditures were made. It is in this view that Congress is now urged to make additional appropriations of one million dollars for the present year for the New York building, and four hundred thousand dollars for Boston, and we are told that the government will be subjected to great loss and damages if these appropriations are not made.

In this connection attention is called to the following statute of the United States:

[PUBLIC—No. 85.]

AN ACT making appropriations and to supply deficiencies in the appropriations for the service of the government for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes.

SEC. 3. *And be it further enacted*, That hereafter no contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement whatever, which shall bind the government to pay a larger sum of money than the amount in the treasury appropriated for the specific purpose. And if any officer of the government shall knowingly contract for the erection, repair, or furnishing of any public building, or for any public improvement, which shall bind the government to pay a larger amount than the specific sum appropriated for such purpose, such officer shall be deemed guilty of a misdemeanor, and, upon conviction thereof by a court of competent jurisdiction, shall be punished by imprisonment not less than six months nor more than two years, and shall pay a fine of two thousand dollars.

Approved July 25, 1868.

It is difficult to find a more palpable or flagrant violation of the spirit and intention, if not the letter, of a law.

If it is possible to so construe the contracts as that they shall not violate the letter of that statute, it will still be very evident that, if carried out, they defeat and violate the plainly expressed will of Congress.

In the opinion of the committee, a building in New York, in all respects suitable and ample for the purpose of its construction, should not *now* cost to exceed \$2,500,000, and could be erected and completed

within that sum. That amount exceeds the estimate made by Mr. Mullett, for a granite building, in 1868, over \$300,000.

The building in Boston should not cost over \$1,000,000 for a first-class fire-proof building, suitable and proper for the purpose of its construction. In this connection the committee call attention to the following letter of Mr. Alpheus Hardy, a well-known citizen of Boston, who has been and is largely engaged in building in that city. Mr. Hardy was also one of the commissioners appointed by Congress to select the site for the building.

BOSTON, *March 18, 1868.*

DEAR SIR: In furtherance of the question you asked of me, as to the probable cost of the new post office in Boston, I beg to state, the City Hall in this city, fire-proof, and in every respect as good a building as the government should erect for a post office, covers 13,927 feet of land, square feet.

It cost complete, to receive its furniture, with steam-heating boilers, &c., \$440,000, or \$31 70 per square foot.

Furnished with every conceivable convenience, it cost \$505,000, or \$36 25 per square foot. Our most costly dry goods stores cost from \$15 to \$20 per foot.

I am now contracting for a building, fire-proof up to the third floor, for banks and insurance companies, with heavy vaults, a very superior building, covering 11,500 feet of land, at a cost of about \$22 per foot.

I am, therefore, clearly of the opinion, that the post office may be erected, and meet every reasonable want of the government, at a price not exceeding \$800,000; say, 22,000 feet of land covered, at \$36 per square foot, finished and furnished; land about \$450,000—total cost, \$1,250,000.

The City Hall was built when prices of gold, and consequently prices of labor and materials, were much higher.

Very truly and respectfully yours,

ALPHEUS HARDY.

Hon. H. McCULLOCH,
Secretary of the Treasury.

The Secretary of the Treasury recommends that the erection of no building be commenced until a law be first enacted providing for its erection and fixing or limiting its cost. The committee earnestly concurs in that recommendation, though even such a limitation has failed to be effective, or to be observed, in some cases which have been brought before the committee. But, without some restraint, experience shows that the money of the government is lavished upon public buildings, without any responsibility, and limited only by the taste or caprice of the officer or agent in charge of them, or, when in the hands of a bad or dishonest man, by his avarice and cupidity.

The committee also recommend that the contracts with the Dix Island Company and the Cape Ann Granite Company be annulled, and that no further appropriation be made for these buildings without a provision limiting their cost, and making it the duty of the Secretary of the Treasury, or other officer charged with the responsibility, to see to it that *plans are perfected*, and proper contracts made, for the entire completion of the buildings within the amounts thus limited.

J. F. FARNSWORTH.

T. W. FERRY.

JAS. N. TYNER.

S. H. BOYD.

GEO. M. ADAMS.

J. S. SMITH.

VIEWS OF THE MINORITY.

Mr. TWICHELL submitted the following as the views of the minority :

The undersigned do not altogether concur in the report of the majority of the committee for the following reasons :

First. The testimony elicited by the committee does not sustain the allegation that money has been expended in excess of the appropriations for the construction of the post office buildings in New York and Boston, or in violation of law; or,

Secondly. That the construction of the said building in New York has been commenced and is in progress in an illegal, or (in the judgment of the undersigned) in an unsuitable manner.

Thirdly. No plans for the building had ever been approved by Congress.

This embraces all of the allegations upon which the resolution of the House ordering the investigation (as recited in the preamble of said resolution) was based, and to the questions referred by the House to their committee for investigation the undersigned propose to confine themselves.

The first complaint made by a majority of the committee is that the supervising architect did not adopt and execute the plans made by the joint labors of the architects employed by the commission. The commission offered a premium for the plans and a percentage to the architects on the amount of the cost of the building. It was, therefore, to the interests of the architects to devise a building that would be in the end very expensive. We find that their plans were for a building to cover all of the ground owned by the United States; so that, had it been built according to their plans, it would have been in the power of the city authorities, at any time, to deprive the entire Park front of the building of light and access. The undersigned therefore concur in the opinion expressed by Mr. A. T. Stewart and others, as given in the testimony, that it would have been unwise for this reason, if for no other, to adopt those plans. Precisely this has been avoided by the supervising architect. He set off twenty-five feet, as he asserts in his testimony, by direction of the Secretary of the Treasury thereby insuring perpetual access, light, and air at that front of the building. A comparison of the plans will show that those of the supervising architect will afford more available space in the post office, where the most room is required, than those of the commission.

He also saved to the government in the commissions that would have been paid under the arrangement with the New York architects, if their plans had been carried out, as will readily be seen by reference to the terms of the circular issued by the commission. Five per cent. was to be paid to the architects on the first \$250,000, three per cent. on the second \$250,000, and two per cent. on the balance expended on the building. For instance, should the building cost \$5,000,000, the commissions would be \$110,000, not including the \$16,000 paid by the commission for plans. These plans, in one important particular, involve an architectural experiment which, if unsuccessful, would have endangered the stability of the building.

All the expenditures on the building have been made under the superintendency of Hon. C. T. Hulburd, whose character for integrity and capacity is well known to this House.

Complaint is made that a contract for furnishing all the stone for the building has been entered into when no appropriation had been made for that purpose. The contract itself provides the means by which the government can obtain all the stone required for the building at a given price from a single quarry *if the government shall choose to order it*, and only at such times and in such quantities as may be ordered, *and for the amount of such orders only can the government be held liable*. Under the circumstances we regard this as a very wise provision. It does not appear that there is any difference of opinion between the contractors and the government in regard to the interpretation of the contract, nor were the contractors called by the committee.

There is no opportunity in this case for an excessive price for the stone, as in the case of the contract for stone for the Charleston custom-house, which is cited, as no expense is incurred except what is specifically required by the agent of the government.

As regards the fifteen per cent. that the contract allows the contractor for cutting the stone, it should be stated that for this percentage he is to furnish all engines, pumps, derricks, tool-houses, sheds, machinery, and all other necessary appliances for a first-class stone-yard. He has further to furnish a foreman to lay out the work, and is responsible for the correctness of the same. It is suggested that ordinary contractors usually charge at least twenty-five per cent. profit for such work where so large an outlay is involved in its execution. At the same time it is the opinion of the undersigned that in the case of buildings of this magnitude and cost, it would be well for the government to undertake the necessary outlay, and itself take charge of the work for which the contractor receives now fifteen per cent., unless the present mixed mode of construction be altogether abrogated, the law changed, and the system of making contracts for the entire building, according to plans furnished by the government, be substituted therefor.

No objection is made to the location or the plans of the Boston post office. The building is located on Devonshire street, between Water and Milk streets. Great credit is due to the city of Boston for widening and raising the streets to accommodate itself to this location, at a cost of about \$500,000, besides granting to the government the perpetual use of all the land under the sidewalks on three streets. It appears that bids were solicited from five of the principal granite companies in New England, being all that were found eligible after an examination of the quarries themselves. Bids were received from four of them. That of the Rockport Granite Company, being the lowest, was accepted. Contracts were prepared and forwarded to them for execution, which they declined to execute on the grounds stated in their rejection. The same contract was offered to the next lowest bidder, which was the Cape Ann Granite Company, and accepted by them. By the terms of the circular the contract was not binding upon the government until approved by the Secretary of the Treasury, and the right was reserved to that officer to reject any or all bids if deemed for the interest of the government to do so.

Objections being made by the Rockport Granite Company, the Secretary did not approve the contract with the Cape Ann Granite Company, but set aside all the bids received under the first circular, and directed that a new circular be issued more explicit in its terms. Under the second circular three bids were received, including those of the Rockport and Cape Ann companies. The latter was decided by the depart-

ment to be the lowest bidder, and the contract was awarded to it. The bid of the Rockport Granite Company last referred to did not, in the opinion of the undersigned, include any proposal for granite for the superstructure, although Mr. John Gardner, of that company, has testified that it was so intended. Subsequently, and without advertisement, a supplementary contract was entered into, under the reservation previously made, for the stone and the dressing of the same for the superstructure. By the terms of this contract the liability of the government was limited to the cost, at the price stated in the contract, of the stone and labor which it may from time to time require the contractors to furnish.

Under the circumstances the undersigned recommend that, if the act of July 25, 1868, be not amended as hereafter suggested, the Secretary of the Treasury afford the Rockport Granite Company an opportunity to contract for the granite for the superstructure at the price they claim to have bid, and at which Mr. Gardner intimates they would still agree to furnish it, viz., forty cents, including bankage and wharfage, per cubic foot.

Comments are made upon the fifteen per cent. allowed to the contractors on the cost of dressing the stone. The remarks in regard to the contract for stone work for the building will apply here, except that it does not appear that the government had furnished a time-keeper at the quarry prior to November 25, 1869, which we think should have been done, although the contract was approved November 8. No evidence was taken, and none appears as to who is responsible for this omission; nor, on the other hand, is there any evidence that the government has suffered any loss by it. The evidence of dissatisfied parties, viz., O. E. Sheldon and James G. Batterson, shows that these contracts are highly advantageous to the government. These are the only parties known to the undersigned who complain of these contracts.

The work is progressing satisfactorily under the superintendence of Gridley J. F. Bryant, esq., of Boston, an architect of high character and great experience, and the disbursements are made, without expense to the government, by William L. Burt, esq., postmaster at Boston, a gentleman whose honesty and integrity are not questioned.

While the undersigned do not approve of the abrogation by law of Congress of contracts entered into by innocent parties in good faith, as thereby great injustice might be done, they do heartily approve of the efforts of the Committee on Appropriations to economize, and to that end do recommend that in the present case the act of July 25, 1868, be so amended as that the Secretary of the Treasury be authorized to make a contract for the completion of the buildings in accordance with the designs under which they are now progressing, the buildings to be completed within two years, and at a cost (exclusive of the appropriations already made) not to exceed \$1,500,000 for the post office at Boston, and \$3,000,000 for the post office at New York, the contractors to give sufficient security for the completion of the work within the specified time and amounts.

GINERY TWICHELL.
THOMAS FITCH.

building now being erected. I do not remember what the estimate as given at the time was. It would be almost a physical impossibility to construct a building at all under those plans. I do not believe there was any intention on their part that the building should be constructed from them. Indeed, I understand that some of them have said that there was no such intention.

Q. Who has said that?—A. I understand that Richard M. Hunt said he would never have signed those plans had he known that they were to be submitted to an architect.

Q. Who was your informer?—A. I cannot say; I understood that he said so. I think no architect could have seriously intended to construct a building with fifty-eight feet girders, clear span, to support the floors and partitions above, in the manner shown on their drawings. It is possible, perhaps, to carry a floor that length, but it will take a bridge truss to do it. If it was intended to construct a building that will require the highest style of engineering and the utmost extent of human ingenuity to carry it out, a building that will require the largest amount of iron work of which science is capable, those New York plans are admirably adapted to that purpose.

Q. Do you know the architects who were engaged in making those plans?—A. I do not know any of those whose names are signed. I think they were signed by five firms.

Q. Can you state the character of the architects who signed those plans?—A. I decline to express my opinion as to the ability of men in my own profession.

Q. Were there not thirty first-class architects engaged in preparing those plans?—A. I do not know.

Q. State whether the estimates accompanying those plans which were made, as you say in your report, by your computer, were too large or too small?—A. Entirely too small. I do not recollect the exact amount, and I have no copy of my report here.

Q. Did it exceed three millions of dollars?—A. I do not know: it is a matter of record, and I prefer to refer to my report.

Q. Did you not complain of that plan as being too expensive, and suggest that your plan would cost much less money?—A. I did; and taking the quantities of the building according to the New York specifications, and comparing them with those of the plan adopted, I can say that the relative difference is greater in favor of the plan adopted, as regards economy, than I then stated. My computer gave me false quantities, and I do not think I ought to be held responsible for false statements, intentionally made to me by him. I said then, and I say now, that a building constructed on the plan adopted will cost much less than on the plan of the New York architects.

Q. The estimate you then gave was a little over two millions of dollars; was that a careful estimate?—A. It was not; there were no plans made. My estimates were based upon the quantities given me, which, as I have already stated, were incorrect, and, as I have every reason to believe, were deliberately falsified.

Q. And yet this was the report you made for the information of the Committee on Post Offices and Post Roads, and of the House of Representatives?—A. Yes, sir; and the estimate I then made, I still say, in comparison with that for the New York plans, was relatively correct. I adhere to that statement, and have no modification of it to make.

Q. And your estimate then for building under the plans and specifications of the New York architects, was nearly three and a half millions?—A. Yes, sir; and there is the same relative difference to-day between the cost of the one building and the other.

Q. Have you since made a careful estimate?—A. I have made an approximate estimate; but I have not had time to make a correct estimate, which could not be done, at any rate, without the working drawings before me, and they cannot be completed for several months. I have compared the quantities of the two buildings, and find that they do not agree at all.

Q. Is not one of iron and the other of granite, so that the quantities would not necessarily furnish the data for a comparison between the two?—A. The exterior of neither was to be of iron. In the New York plans there was not, I believe, a single brick partition in the entire building. I wish to repeat what I said before, that in the construction of those plans, human ingenuity seems to have been strained to the utmost, for no other apparent purpose than to require the use of the largest possible quantity of iron.

Q. Was it not stated by the architects that they adopted this large amount of iron work for the purpose of giving the building light, especially in the basement, where a large part of the post-office work has to be done?—A. I am not objecting to the support of the building by iron columns. But I do object to constructing in the interior a building entirely as if it were a piece of bridge-work. I think you will find no person, not prejudiced in the matter, who will say that any building can be constructed on those New York plans.

Q. Where are those plans?—A. At the department. I will bring them here to-morrow.

Q. What appropriations are available for the purpose of this building?—A. An appropriation of about two hundred and eighty thousand dollars, made in 1856, as decided by the Comptroller of the Treasury; and, in addition to that, two hundred thousand dollars appropriated at the last session of Congress.

Q. For how large a portion of this aggregate sum have contracts been made?—A. I cannot tell that, without calculating them in detail. The most of the work, however, is being done by the day; the contracts are very small, and are, in almost every instance, for such an amount of work as may be ordered.

Q. Will they exceed in the aggregate the amount of four hundred and eighty thousand dollars which has been appropriated, and which, according to your statement, is now available?—A. No, sir; I have no idea that they will come up to that. We expect, so far as possible, to keep always within the appropriation. I will make out a schedule of the contracts made, with the names of the contractors, and furnish it to the committee.

Q. What do you think of the location of that building in New York City?—A. I was always opposed to it; I believe it was in a great measure at my suggestion that an amendment was made to the appropriation bill of last March, authorizing the Secretary of the Treasury to exchange it for another site. This grew out of a conversation I had with Mayor Hall, of New York, in which he said that he was opposed to it himself, and that he was satisfied the city would give an equal amount of land in some more central location if we would surrender that. I reported that fact to the Secretary of the Treasury, and he considered it of sufficient importance to request me to communicate it to the members of the Committee on Appropriations, which I accordingly did.

Q. The building you are now erecting is flush with the sidewalk, is it not?—A. It comes out to the sidewalk on Broadway. On Park Row the established sidewalk is only eleven feet wide, and the width adopted is the same as that on Broadway. Eleven feet is entirely too narrow. I have acted in that respect under the direction of the Secretary of the Treasury, and have advised with persons who have had a great deal of experience in building in New York. In accordance with the provision to which I have referred, the Secretary appointed a commission consisting of A. T. Stewart, Horace Greeley, and William Orton, who spent a considerable time in negotiating with the city authorities, but were finally satisfied that nothing could be done, and accordingly reported that no change was practicable. I went to New York myself, and called on Mayor Hall, in company with Mr. Orton and the postmaster of that city, and was satisfied that nothing could be done. Mayor Hall said he was in favor of a change, but that the opposition to it in the board of aldermen was so great that he was satisfied it could not be made. I reported this result to the Secretary of the Treasury, who soon afterward visited New York himself, and, on his return, directed me to proceed and prepare plans for the work. I did not prepare any plans until I was instructed to do so by the Secretary.

By Mr. FITCH:

Q. In this report made by you to Mr. McCullough, under date of March 30, 1868, you make an itemized estimate of the cost of the building upon the plans you proposed at a little above two million dollars. I understand you to say that the cause of that estimate being too low was because the quantities were erroneously furnished you. Did you examine the work of your computer in that time?—A. I did not; it was impossible, with the amount of work upon my hands; I could not examine particularly into all those estimates if I were to work constantly day and night; I had, at that time, entire confidence in the estimates of my computer.

Q. Can you state to the committee in what particulars his computations were inaccurate?—A. I can only say that I found generally that his computations were incorrect. Since his removal he has slandered me in every conceivable manner, and you will not doubt that I have not now any confidence in him.

Q. Then, although you have stated that the cost of the building will not exceed four million dollars, you have not now made any careful estimates?—A. No, sir; an exact estimate can only be made with working drawings, which are not prepared. I have made an approximate estimate, as carefully as I very well can without the working drawings.

Q. Did not the then Secretary of Interior and the Postmaster General approve of those New York plans?—A. They did.

Q. And you are proceeding to construct this building, the cost of which you have not computed, except in this general way?—A. Yes, sir; but, as I have said, I have satisfied myself by careful computations that the cost will not exceed the amount I have named; and I think it can be built for much less that amount; if the law had limited the amount to be expended to any particular sum, of course I should have made my plans to conform to that requirement.

Q. Is the decision of the Comptroller of the Treasury, that the appropriation of 1856 is available for the purposes of this building in New York, in writing?—A. No, sir; the matter was referred to him, to ascertain whether he would pass the account, and he decided the appropriation was available.

Q. Was that ascertained by presenting to him bills for work already done?—A. No, sir; it was before the contracts were entered into. I may state, in regard to these contracts, that in every single instance except one they were awarded to the lowest bidder. In that instance, the granite proposed was unfit for use; the quarry was a new one, and had never been worked.

Q. Were the bidders not required to give bonds?—A. Yes, sir; but in this instance the lowest bidder could not have given any bonds, because he could not have furnished granite of the right quality. I went with him to inspect the quarry, and found that the stone would not answer at all. In fact, his was no bid. The contract was let to the next lowest bidder, at the rate of sixty-five cents per cubic foot, and that was a great deal lower than any other bid. The bids went as high as \$1 25 per cubic foot.

Q. Then in these bids the materials are passed upon by the supervising architect, as well as the price?—A. Yes, sir; and the samples are submitted to the Secretary of the Treasury. We have never before had bids where the parties were unable to furnish the required quality of granite. There are but about half a dozen quarries available, at which the granite is first-class for such buildings; and the persons bidding have always provided for granite from some of those quarries. For instance, persons in the granite trade would not bid for Quincy granite, because it is too dark for their purposes; that granite is used principally for warehouses, or for work in which dark-colored granite is required.

Q. Do you in all cases claim the right to reject bids if the samples furnished are not satisfactory?—A. That is done in every case; I do not do it; I make my report to the Secretary, who examines the samples and the price. Such discretion is of course necessary to be exercised by some one, or else there would be no competition at all.

By Mr. BOYD:

Q. Does the committee understand you to say that your estimates have been sufficiently accurate to enable you to state that the building you are erecting in New York will not cost five hundred thousand dollars more or five hundred thousand dollars less than a certain amount?—A. I have already said that no exact estimates have been made or can be made until the working drawings are completed. But I have made approximate estimates as careful as possible without those working drawings, and can state, as I have before said, that the building will not cost more than four million dollars; and I hope to be able to bring it down to even less than three and a half millions.

By Mr. FERRY:

Q. When will these working drawings be completed?—A. We are progressing with them as rapidly as we can, and I am pushing the building as fast as possible in order to get it under roof at the earliest practicable moment. It will be a month or two yet before the drawings will be sufficiently far advanced to enable me to have estimates made with absolute accuracy. I suppose the drawings will not be entirely completed within six months; but they will be far enough advanced to enable me to make a pretty correct estimate within a month or two.

By Mr. FITCH:

Q. Will you prepare and furnish to the committee a rough estimate of the amount of loss to the government in case it should be deemed advisable to change the location of the post office in New York altogether; and how far the present material would be available in a new post office?—A. I will; I will say at once, however, that that will be principally a question of labor. Most of the material will be as available in one place as in another. I can give you such an estimate very readily within a day or two.

By the CHAIRMAN:

Q. Does Mr. Hulburd know how much money has been expended in New York?—A. Of course he does.

Q. Can you state whether labor and building materials are cheaper or dearer now than they were a few years ago?—A. As a general thing they are higher. I think, however, judging from the present price of gold, and the progress of gold in a downward direction, that they will be lower within six months. I have here an article from the New York Times, complaining of a contract awarded for thirty-two iron columns. The complaint seems to be, that I gave it to a man at lower prices than the original cost. In this case the contract was awarded to J. B. and W. W. Cornell, whose bid was much below any other. These are men whose standing and responsibility are above question. They have given their bonds, and they will have to furnish precisely what they have agreed to furnish.

Q. In what New York papers were your advertisements for contracts published?—A. They were published in all the New York papers of large circulation, I think, with the exception, perhaps, of the World. I am not sure whether they were advertised in that or not.

Q. For what length of time were the advertisements published?—A. I think for about a month the first time, and about a week the second time. They were fully advertised, and each bidder was furnished with photographic copies of the drawings. There was a full competition by the iron men of the country.

By Mr. TWICHELL:

Q. I understand you to say that Mr. Hulburd, an ex-member of Congress, has been appointed to superintend the building in New York. How is he paid for his services, by salary, or in the shape of commissions?—A. Nobody has any commissions except in the matter of cutting the granite, which is done under an agent of the Secretary of the Treasury. The contractor receives a commission of fifteen per cent. beyond the amount paid the workmen; that is considered the best method of getting that work done. It is a plan which has been followed quite extensively in other cases. Mr. Hulburd was appointed, as I understand, because he had the full confidence of the Secretary of the Treasury, and of men in New York, as a man of ability and integrity. He devotes all his time to the work,

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and receives a salary of ten dollars per day, and four and a half dollars per day in addition to cover his hotel expenses.

Q. Do you frequently visit the work yourself?—A. Not often; as seldom as possible.

Q. Is Mr. Hulburt an architect?—A. No, sir. The drawings are all made here, and furnished to him.

Q. Can a man who is not an architect determine whether work is being done properly?—

A. Mr. Hulburt has for assistant a gentleman who is a practical builder, and is entirely competent to judge of the excellence of work of that kind.

Q. Did the committee understand you to say that, in your judgment, these New York plans were drawn for the purpose of defrauding the government?—A. I did not *say* exactly that; I do believe, however, that that was the purpose.

Q. Will you state any other reasons than those you have already mentioned which induces you to believe so.

A. I have other reasons, which I will give at some future time. I desire an opportunity first to refresh my memory.

Q. Can you state any other reason now?—A. Yes; a gentleman told me that he was promised a large contract in connection with the building.

Q. Who was that?—A. Mr. Hoyt, of Boston.

Q. Who did he say promised it to him?—A. He did not say. What he said was, that he had lost a large contract by the work coming into my hands.

Q. Do you know of any legislation of Congress that could give those New York architects any control over that building?—A. I believe that the bill which was reported would have given them a very decided control over the building.

Q. But do you not know that that bill was not reported until some time afterward?—

A. It was promised by the commission. I only say, that when men who are competent architects make a plan for the construction of a building that is an impossibility or an absurdity on the very face of it, it is fair ground for believing their intention is to perpetrate a fraud, either through fraudulent contracts or otherwise.

Q. What other absurdity was there in those plans, except the fifty-eight feet girders?—

A. I have stated them in my report.

Q. Can you not state anything else now?—A. Having stated these matters fully in my report, and that being a matter of record, I prefer to refer to that. I remember that I stated that these plans required wrought-iron partitions, and I think no man who is a competent architect, acting in good faith, would require wrought-iron partitions where he was not compelled to. The doors and the window-blinds were to be of wrought-iron; and, indeed, the whole object of the specifications seemed to me to be to multiply, to the utmost possible extent, the quantity of iron work in the building; and I cannot conceive of any other object in presenting such plans and specifications, except to defraud somebody.

By Mr. TWICHELL:

Q. Would not those plans necessarily require to be changed before the completion of the building?—A. Certainly; and my belief is that that was their intention. I do not believe any architect can be found who would deliberately construct such a building with girders of the span given there. So far as I recollect, there are only four rolling-mills in the country that make rolled beams, the largest of which is fifteen inch; and I will venture to say there is no one you could get to make them and guarantee their safety.

By the CHAIRMAN:

Q. You have taken charge of the building to be constructed in Boston for a post office?—A. Yes, sir.

Q. What kind of contracts have been made there?—A. They do not amount to very much. We have now, I think, a balance on hand, in the treasury, of thirty-odd thousand dollars. There was no unexpended appropriation in that case. The contracts for the granite work are such as to leave the Secretary at liberty to order such quantity as may be required. The contracts cover only the orders given.

Q. Then the contract given does not cover the entire stone-work for the basement?—A. I cannot tell whether orders have been given for that amount or not. The retaining walls, I know, were all finished some time since.

Q. Were the contracts in Boston made upon advertisement?—A. All except for the granite work. In respect to that, the Secretary found that there was a combination to put up the price of granite, and leased a quarry upon more favorable terms than the material could have been otherwise obtained.

Q. Of whom did he lease the quarry?—Of the Cape Ann Granite Company. Colonel French is the president, I think.

Q. On whose recommendation did the Secretary lease that quarry?—A. It was the result of an investigation made by the superintendent there—a result in which I, myself, concurred. I do not remember who was the first to suggest it. Several quarries were examined.

Q. You recommended it to the Secretary?—A. I did. But the Secretary, in this case, made a personal investigation in Boston. He took the proposed lease with him, and made very careful inquiry into the whole subject.

Q. Who owns this quarry?—A. It is owned by a company. I do not know any one personally who owns stock in it, except Colonel French. The contract made for the quarry was for the basement story, and was for an exceedingly low figure; much below the market price. I think the price was about forty-five cents per cubic foot.

Q. As there are other quarries in the vicinity, why did you not advertise?—A. Because the quarries within range, having stone suitable for the purpose, are perfectly well known. Those quarries had an opportunity of bidding. We obtained the lease of this quarry on much more favorable terms than we could of any other. We obtained written proposals from other quarries, but this was for the lowest.

Q. From what other quarries did you obtain proposals?—A. From the Rockport Granite Company. Letters were addressed to other quarries, the lease of which was declined, or no reply made to the circular letter.

Q. Would you be likely to know that no other quarry could be obtained on so favorable terms, without advertising?—A. Yes, sir; because the quarries are well known, and letters were addressed to the proprietors of each.

Q. Who is superintendent of the building in Boston?—A. Gridley J. F. Brandt.

Q. Do you know anything about the character of this Colonel French?—A. I do not know that I ever saw him until I met him on this business.

Q. Did you consult anybody else from Massachusetts in regard to this contract?—A. I consulted the postmaster there; and the whole matter was placed in the hands of the Secretary of the Treasury.

Q. Did any one consult you about it?—A. I think I spoke to Mr. Twichell, a member of this committee, about it; I believe to Mr. Hooper; and also to General Butler.

Q. Do you know who are the principal stockholders in that company?—A. No, sir; I do not know. I never made any inquiries about it, and have no means of knowing. I neither knew nor cared anything about it. The only question with us was, whether we could get our granite there cheaper than we could anywhere else. The lowest market price in Boston for the granite, which we got for forty-five cents, is from sixty-five to seventy-five cents. Our granite is delivered at the building in Boston at that price.

Q. Does not that include rubble stone?—A. Yes, sir.

Q. When you say the market price of granite in Boston is sixty-five to seventy-five cents, do you mean that that is the price of rubble stone?—A. I mean to say that that is the market price of the quality of stone used in the basement of the building, including the rubble stone.

Q. What proportion of rubble stone is used in the basement of that building?—A. About one to three of dimension stone. We advertised for stone for the foundation of the building; they are of extra size—very large blocks.

By Mr. TWICHELL:

Q. Does not the superintendent or architect reject any stone, delivered under this contract, which is not satisfactory?—A. Yes, sir; he rejects everything he deems unsuitable for his purpose in the construction of the building. I stated that the cost of this granite, delivered at the building, was forty-five cents. I will now say, after referring to the contract, that the cost is thirty-nine and three-quarter cents per cubic foot, with a royalty of twenty-five cents a ton added.

Q. Was there not a larger price paid for blocks of extra large size?—A. We adopted the regular Boston rule in this respect of allowing a cent a foot extra for each additional foot in size beyond twenty cubic feet.

By Mr. FITCH:

Q. I understand you to say that the granite contracted for is rough granite?—A. Yes, sir; we are cutting it on the same terms as for the building in New York, allowing to the contractor fifteen per cent. on the actual cost of cutting. In that way we get ten hours work done a day, and save at least five per cent. on the cost to us of having the work done by days' work.

Q. You say that you did not advertise for the leasing of the quarry, because you addressed circular letters to their proprietors. Might there not have been some quarry you did not know anything about, which you could have leased upon more favorable terms?—A. No, sir; that could not possibly be.

Q. Did you examine the Rockport quarry?—A. Yes, sir; but their proposition was made in such a way that, after it was accepted, they had to withdraw it. They said it would break up their entire business.

By the CHAIRMAN:

Q. How do you know that this was the only available quarry that you could lease on as favorable terms?—A. Because I went there to see about it. I went to Cape Ann, and was at Boston several days on this business. The quarries in that vicinity are all well known, and we acted upon full information.

By Mr. TWICHELL:

Q. Do you propose to use the stone from the Cape Ann quarry for your entire building?—A. I believe that is the Secretary's intention.

Q. Are there not granite quarries at Fitchburg, and at Concord, N. H.?—A. Yes, sir; but the Concord granite would cost at least double the price we are now paying. The Fitchburg quarry is a softer granite. The Quincy granite would do for the basement; but even that would cost more than we pay, and I believe the Quincy granite is about the cheapest in the Boston market. We could also obtain granite from the Hallowell quarries; at a higher cost, however.

Q. Did you ever examine the quarry up in Palmer?—A. No, sir; I did not.

By Mr. ADAMS:

Q. I understand that after leasing this quarry, you pay the proprietor for getting out the granite?—A. Yes, sir; we pay at a specified rate for the granite, quarried and delivered at the building. We contract from the same parties from whom we lease the quarry, and then make them our tenants at will. The entire cost, including the lease of the quarry, is forty-one and three-tenths cents per cubic foot of granite, delivered at the building, for blocks not over twenty cubic feet in size.

NOTE.—The witness, on reading over the above testimony, wishes to strike out the expression, "I went with him to inspect the quarry, and found that the stone would not answer at all," and to insert in lieu thereof as follows: "I went to New York to meet him and make arrangements to inspect the quarry, and found that he had no quarry opened, neither do I think that the stone would have answered."

WASHINGTON, D. C., December 23, 1869.

A. B. MULLETT—examination continued.

By the CHAIRMAN:

Question. State the difference in size of the New York city post office building, according to the two plans.—Answer. Both plans covered substantially the same area, except that by the plan on which the building is being constructed, it sits back twenty-five feet upon the Park Row front. I believe the present plan covers less feet upon the Park Row front than the other does.

Q. In other words, the building is twenty-five feet shorter by your plan than by the other?—A. Yes, sir.

Q. How many buildings are you engaged in the construction of at present?—A. I cannot tell without referring to my report. I think upwards of twenty, in different parts of the United States.

Q. Do you visit personally all the places where you are erecting buildings?—A. Not all of them. I have not visited those in Oregon, but I have visited all the rest. Where I cannot go myself, my assistant visits them. I have been unable to visit any but the most important ones this year.

Q. Did you make the contracts for all of them?—A. The contracts are made through advertisements by the superintendent, and are submitted to the Secretary in every case, with the bids received.

Q. Was it the universal custom to advertise for contracts?—A. Yes, sir; except in exceptional cases; I mean cases in which the cost of advertising would frequently be more than the cost of the work itself, in which cases it is not usual to advertise. But all contracts of any importance are advertised; and I may say that I have never yet recommended the awarding of a contract to any but the lowest bidder.

Q. Have you made an estimate as to how much the Boston post office will cost?—A. Yes, sir; we made a pretty careful estimate, which, I think, is substantially correct. It amounted to a little over \$1,800,000; and I know of no reason now why that estimate is not substantially correct. That structure is being built of granite.

Q. Did you advertise for the cutting of the stone for that building?—A. No, sir; we are doing that work by the day.

Q. Are the same parties who do the cutting interested in the quarry?—A. They are, in every case.

Q. Then the same parties cut as well as quarry the stone?—A. Yes, sir; I believed that that was the only way in which it could be done promptly, unless we did it by the day ourselves, with the difficulty in collecting men for the work, who are very scarce.

Q. You did not advertise for proposals to do the cutting?—A. No, sir.

Q. How much will the entire stone work of the Boston post office cost?—A. I can give you the figures from my estimate.

Q. Can you not approximate to the lowest figure now?—A. I beg you will excuse me. I will send you the estimate to-morrow, if desired.

By Mr. BOYD:

Q. Is the amount of work that you have on hand so extensive as to interfere with your

physical or mental ability to attend to it?—A. I have got along pretty well so far, but I would not want to continue it much longer.

Q. How much money has been appropriated for these fifteen or sixteen buildings that you speak of?—A. I cannot give you the amount now. It is all stated in detail in my report, I believe. Our office is the only office under the government that gives a detailed account of its appropriations, expenditures, and balance on hand.

Q. In the course of the examination yesterday, I was very much surprised that any department of the government should expend money so largely in the erection of buildings, and that you, being in control of their construction, could not tell, within five hundred thousand dollars, of the cost of the New York post office.—A. I beg pardon, sir; I think you misunderstood me.

Q. I now ask you if you can tell, within five hundred thousand dollars, the cost of the New York post office?—A. I have done so; but if you will give me the time to do so, I will make an exact estimate of the cost.

Q. Have you commenced building it without knowing its cost?—A. Yes, sir. When the plans are made, and are approved by the Secretary, that is all that is generally deemed necessary; but if you will give me time to make an estimate I will tell you within a much smaller figure than that, the cost of the New York post office.

By the CHAIRMAN:

Q. Have you ever acted as architect for the erection of private buildings?—A. Yes, sir; but I have been principally employed in the erection of public works.

Q. Is it not the custom of private individuals, prudent men, when they project a building and employ an architect, to have him make plans and specifications and estimate the cost?—A. Sometimes it is, and sometimes it is not. It depends a good deal upon the character of the building. I understand that when Mr. A. T. Stewart, of New York, undertakes to put up a monumental building regardless of cost, he does not have an estimate made in advance.

Q. Do you know what the general custom of individuals is in that respect?—A. It is the usual custom to have an estimate made.

Q. Is there any difficulty, depending in any way on the size of the building, to prevent making out plans and specifications as to the construction and cost thereof?—A. Not at all. When an architect is given time to make his plans and specifications, there is no trouble about that; but I have had no such time.

Q. I want to know now whether there is any difficulty in making contracts for the entire completion of every part of a building, according to the plans and specifications, before the building is commenced?—A. If you will look at the result of that system of operations as shown in my report, I think you will find that question fully answered.

Q. You have recommended that course, however?—A. No, sir.

Q. Have you not recommended that the plans and working drawings and estimates should be made for every part of the building?—A. I prefer that system.

Q. Is there any difficulty in following that system?—A. No, sir; not if you give me time. If you give me sufficient time I can make plans and estimates so close that I would be willing myself to take the contract at my own estimate.

Q. After the plans and specifications and drawings and estimates are all complete, is there then any difficulty in contracting for the work?—A. Yes, sir.

Q. What is the difficulty?—A. If you will look through the records of the department, you will find that there has not been a contract of any importance fulfilled for the amount of the contract, no matter how accurate the plans had been made; and if the department endeavored to enforce the contracts the contractors almost invariably have gone to the court of claims, or to Congress, for an additional amount of money.

Q. Is there any difficulty in contracting for the entire work?—A. There is no difficulty in making the contract; but in my opinion it is an absolute impossibility to enforce it.

Q. Supposing the law provided that the entire contract for making and completing the building should be entered into before the work was commenced, and that the contractor was required to give bonds (as heretofore recommended by you) for the faithful performance of his contract, what difficulty would there be in the way of enforcing it?—A. I have recommended several times, in my reports, that some modification of the law in relation to contracts should be made. If there were proper regulations it might be possible to make contracts for government work with responsible men; but with the present system it is impossible. We recently advertised for some granite for work in San Francisco, giving a full schedule of the number of stones and their size, and a specimen of the quality of hammering, which was cut upon a sample block that was sent to San Francisco, and samples of granite were sent on for the approval and inspection of the Secretary, with the bids. Fortunately the lowest bidder was a man of responsibility, but the three next lowest bidders were three laboring men, out of whom or their bondsmen not a dollar could have been probably collected if they had failed to fulfill their contract.

Q. Do you not suppose that that would be the case with any individual who should undertake to build a large building in San Francisco, and should employ an architect in the city of Washington to superintend it?—A. We have a superintendent in San Francisco.

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Q. I mean, who should employ a superintendent living in Washington to superintend his building in San Francisco?—A. I do not superintend that building.

Q. Well, call it a supervisory architect then?—A. There is no reason why I cannot do it here as well as if I were there.

Q. Do you think that you, living in Washington, can supervise and make a contract for a building in San Francisco as well as if you were there?—A. I do not make the contracts.

Q. Did you not testify here, a little while ago, that you did make all the contracts for these public buildings?—A. No, sir; if I did it was a mistake. I said that all these contracts passed through my hands; they are prepared in my office; the superintendent is directed to forward them with such recommendations as he may deem proper.

Q. I want to know whether it is not the custom of individuals, prudent men, to let all the contracts for the entire construction of a building which they have projected, before they begin it?—A. I do not know that it is; there is a great difference upon that point; and there is a great difference as to the manner in which the work is done. For small jobs that undoubtedly is the custom; but for large ones I do not know that it is.

Q. Is it not the custom for men who are building blocks of houses in cities, or hotels, or other large structures, to let their contracts for the stone work, for the brick work, for the iron work, for the wood work, for the plastering and painting, &c., according to the plans, specifications, and drawings of their architect, when they commence their building?—A. I do not know that it is.

Q. All this government work is done by contract?—A. Certainly not.

Q. Could you not just as well advertise, and let the contract to-day for the painting of a building, at the same time that you contract for the stone-work, as you can after the stone work is done?—A. I see no advantage in my making a contract two years in advance, but do consider that it would be a disadvantage.

Q. But is there any reason why it *could not* be done?—A. If you give me time to make the plans, I can make contracts for the entire building.

Q. There is no difficulty, then, in making a contract for the finished building at the same time the contract is made for the foundation?—A. There is no difficulty in doing so, if it were deemed advisable.

Q. Is not the contractor just as likely to perform his contract, if it is made at that time, as he is if it is not made until afterward?—A. I do not know; it depends upon whether labor or material go up or down in the mean time. We are doing all the work of the government by the day.

Q. Do you do your stone-cutting by the day?—A. Yes, sir; we are doing that by the day; Mr. Dixon is cutting it in one place, and Col. French in another.

Q. Where is Mr. Dixon?—A. At Dix Island.

Q. Do you buy your stone of Mr. Dixon?—A. Yes, sir.

Q. And Mr. Dixon contracts to have the stone cut as you want it?—A. He has the stone cut according to the standard given him.

Q. Then he agrees to have the stone cut as you want it, and to have it done by a given time?—A. Yes, sir.

Q. And is not that a contract?—A. I have answered that question three or four times already.

Q. I want to know, then, what you mean by saying that the work for the government is all done by days' work?—A. I stated emphatically yesterday, that Mr. Dixon had a contract to cut the stone by the day, and that he was allowed fifteen per cent. upon the actual cost of cutting it. Our custom is to do the work by the day, and when I so stated, I instanced this as an exception; the only exception besides Boston.

Q. Did you not say, a few moments ago, that you were doing the stone-cutting for the New York and Boston post offices by the day?—A. We are doing it by the day; I said two or three times yesterday, that Mr. Dixon was getting fifteen per cent. on the work done by him; the stones being cut under our own superintendence. It would have been almost impossible to have gone ourselves and collected stonecutters, unless we offered additional inducements, which would have amounted to more than fifteen per cent.

Q. Could you not contract for the joiner work of a building at the same time you do for the stone?—A. We can do it; there is no difficulty in the matter, if you choose to put yourself in the hands of the contractors. As soon as the plans are finished you can contract for anything which the mind of the architect can conceive.

Q. But you think it is not better to have the work done by contract?—A. I have not so stated.

Q. You think it better to have the work done by the day?—A. I do, because we then get the quality of work that we want.

Q. All kinds of work?—A. Of course I do not include the iron work, because we then would have to start a foundry.

Q. But why not let the wood work by contract?—A. Because no contractor will take a contract at a less estimate of profit than from twenty to twenty-five per cent.; and, in addition to that, a careful contractor will add at least ten or fifteen per cent. for contingent errors. The usual rates to-day of contractors are from twenty to twenty-five, and as high as thirty-three and a third per cent. profit.

Q. Then the reason you think it not wise to contract is, that it costs more?—A. I think the work can be done cheaper under the government supervision; and besides, you can then get the exact quality of work that you want.

Q. You think that the contract system is more costly, and that the government does not get so much work?—A. That is my reason.

Q. Do not individuals, in building, find that they can get their work done cheaper by contract than by hiring men by the day?—A. Mr. A. T. Stewart, of New York, after trying the contract system, is now doing the whole of his work by days' work, allowing the contractor a fixed percentage.

Q. If he is doing all his work by days' work, what business has he with a contractor? What do you mean by a "contractor"?—A. Simply that he employs somebody to superintend the work. Mr. Kellum, his architect, is his superintendent. He does all the work for Mr. Stewart. He makes a contract with certain builders to do the various kinds of work—stone-work, carpenter-work, &c., allowing them fifteen or twenty per cent. upon the actual cost of the work, to them. The contractors agree to have the work done by a given time.

Q. Is that what you mean by having work done by the day? Could you not contract to have work done in that way, just as well when the building is commenced as afterward?—A. I could, if I had authority to do so.

Q. If you had your plans and specifications and drawings all completed, could you not make all your contracts before the work was commenced?—A. There was a law passed by the last Congress, making it a penal offence for government officers to make contracts beyond the amount of the appropriation.

Q. But could it not be done up to the amount of the appropriation?—A. Certainly, it *could* be.

Q. Is there anything to hinder it?—A. Not if the plans and specifications are all finished, and if you give the architect time enough.

Q. Would you then be able to tell what the building was going to cost?—A. Pretty nearly; but in any building there are generally more or less extras, and changes that are found to be necessary, that will prevent your telling the exact cost of the building.

Q. You could probably tell it within half a million of dollars?—A. O, certainly.

Q. You do not pretend that you can personally superintend those buildings that are being erected at a distance from Washington?—A. I can personally supervise their construction.

Q. Without visiting them?—A. Yes, sir; I can do it by photographs. It is often unnecessary for me to visit the building.

Q. Can you tell by photographs whether the building is progressing according to the plans and contracts?—A. We have the semi-monthly returns; and as often as it is necessary, I require photographic views to be sent, showing the actual state of the building; I compare these photographs with the contracts, and with the quantities as returned by the superintendent.

Q. Will the photographs tell you anything as to the *quality* of the stone or brick, or other materials?—A. The superintendent tells me that.

Q. Then, after all, you are in the hands of the superintendent, who is present?—A. Not at all; it is impossible for him to falsify his returns.

Q. Then you are not dependent upon him?—A. There is a mutual dependence, I think; he depends upon me, and I depend upon him.

Q. So that a building in Oregon or in San Francisco, under the superintendent there, would go on just as well without your personal supervision as with it?—A. I went out last year to San Francisco, and saw the building that was started there for the mint. I understand its location, &c. Since then I have not been out there, and I know of no necessity for being there, until the roof is on the building. The disbursing agent is furnished with copies of the contract, and he disburses the moneys. The superintendent does not handle a dollar of it.

Q. On whose certificate does the disbursing agent pay over the money?—A. On the certificate of the superintendent.

Q. Then, after all, you have to depend upon the superintendent himself?—A. Yes, sir; to that extent.

Q. So that it comes to this at last, that you have to depend upon the man who has personal superintendence of the work?—A. As a matter of course; and it is for that reason that I have adopted the system of doing the work by the day.

Q. Has the superintendent no opportunity of cheating the government in the matter of the number of men employed by the day?—A. Not without the connivance of the disbursing agent. The disbursing agent is not allowed to give to the superintendent the money in the aggregate, but has to pay each man himself, and be satisfied that each man he pays has been actually employed.

Q. Do you mean to say that the disbursing agent must personally see every laborer, and give him his money, into his own hands?—A. Yes, sir.

Q. Do you have a separate disbursing agent for each job?—A. Until recently the collector of customs was the disbursing agent at the various places; it is now modified and the Secretary now has power to appoint any bonded officer of the United States.

Q. Do you mean to say, then, that the collector of customs of New York personally paid

every man at work on the post office building there?—A. The law used to be that the collector of customs should be the disbursing agent; but at the last session of Congress the law was modified, and now the postmaster is the disbursing agent.

Q. And you pretend to say that the postmaster of New York pays the money into the hands of each workman on the new post office building, and sees to it that each person he pays has been at work upon it?—A. Of course I do not mean to say that he stays there the whole time; but he has got to satisfy himself, by personal observation, that the men have done the amount of work that is claimed for them, and to pay them accordingly. He does not pay the money to the superintendent.

Q. Do you mean to say that the postmaster of New York, or his cashier, pays the men who are working at cutting the stone?—A. No; but he takes a certified pay-roll for the account.

Q. Is the excavation done by the day?—A. Yes; we had a contract for it, but found it impossible to enforce it; then we abrogated it, and the work has been done by the day ever since.

Q. Who superintends that work?—A. Mr. Hulburt.

Q. Is there no contractor for it?—A. Not at all.

Q. Does Mr. Hulburt hire the men?—A. Yes, sir; he hires them himself.

Q. Are the individual workmen paid by the postmaster?—A. I have directed that to be done, and I have no doubt but that it is done; a letter was written directing that each man must be paid individually. Mr. Hulburt was notified by me that such a practice as paying the aggregate amount could not be tolerated.

Q. These are the cases where the government hires the men by the day?—A. Yes, sir.

Q. But how do you manage where you contract with a man, and he hires the workmen?—A. If the contractor were on the post office site, the postmaster would pay him; if he were working far away, he would be paid upon the certificate of the acting agent, who certifies that he knows the men to have been employed, and that he believes them to have done their full day's work.

Q. Who appoints that agent?—A. The Secretary of the Treasury.

Q. Upon whose recommendation?—A. I do not know of any fixed rule.

Q. Who is your agent at Dix Island?—A. Mr. Rodney Fogg.

Q. Upon whose recommendation was he appointed?—A. On the recommendation of Senator Morrill, of Maine, and Mr. Blaine. He is the agent of the government on Dix Island; he is time-keeper of the stone work, and is required to certify to each pay-roll. I know of no other way to manage it. The Secretary appointed two other gentlemen previously, but they declined.

Q. Suppose he was to make a false certificate?—A. He could not do so to any great extent, because the fraud would show in the cost of the work; we know by our estimates what the cost of the stone-cutting should be, and we can figure it down pretty closely.

Q. Then you depend for the faithful application of the money upon your knowledge of the value of the work, as well as upon the integrity of the man whom you appoint?—A. A part of the duties of the superintendent at New York is to visit Dix Island at certain times, when he is not expected, and to verify by actual observation the work that is being done there.

Q. What I want to get at is, where the responsibility for these things is.—A. I think it is so far divided that a fraud to any extent is impossible, without the connivance of the superintendent, his clerks, and the master workmen; and without my being very careless in regard to the matter. We have full monthly returns of every branch of the work, in which the superintendent has to account for every dollar he spends. If he says that he has used up so many thousand brick, we measure up the work that is done and see whether that work would require so much brick. The accounts of the disbursing agent are compared with the returns of the superintendent; and I consider that a fraud of any amount is a physical impossibility.

Q. When you cannot tell within five hundred thousand dollars of how much a building ought to cost, is there not some chance for fraud?—A. Not at all; I know exactly what the cost of a thousand brick is, and what it costs to lay them.

Q. Are you a judge of the cost of brick in San Francisco?—A. We advertise for our brick there.

Q. But are you a judge of the value of materials in San Francisco; do you think you are as good a judge of material and labor there, as the man who lives there?—A. We have a superintendent who lives there.

Q. Then you rely on him?—A. No; I take his statements for what they are worth.

By Mr. BOYD:

Q. Who is responsible for commencing work on the New York post office building?—A. The Secretary of the Treasury sent me written instructions.

Q. At whose suggestion?—A. I do not know; the Secretary came back from New York, and sent for me, and gave me written instructions, without any solicitations on my part.

Q. Did you not bring the matter to his notice before you received your instructions?—A. As a matter of course; I took my appropriation-book, and asked instructions from the Secretary of the Treasury.

Q. Did you then suggest to him the propriety of beginning the erection of the building?—A. Certainly.

Q. Then *you* are responsible for the beginning of the work upon the building?—A. You may put it as you please.

Q. I understand you to say that you are one of the first persons who suggested the commencement of the work?—A. I did not say anything of the kind; the Secretary will tell you who recommended him to commence, if you ask him.

Q. You made the suggestion to the Secretary?—A. I ask for orders in regard to every building.

Q. Did you, personally, suggest to the Secretary of the Treasury the necessity or propriety of beginning the erection of the New York post office building, before you received orders from him to do so?—A. I took my appropriation ledger, and asked instructions from him as to when I should commence the buildings.

Q. I mean in that particular case?—A. Of course I suggested to the Secretary the propriety of beginning the work; the orders came, however, when I had no expectation of receiving them; they came just after the Secretary's return from New York.

Q. Neither you nor the Secretary had any estimate of the cost of that building, when you were ordered to begin it?—A. Certainly not.

NEW YORK, *December 29, 1869.*

RICHARD M. HUNT sworn and examined.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside in New York, No. 49 West Thirty-fifth street; I am an architect.

Q. How long has that been your profession?—A. Twenty-five years, studying and practicing; I have practiced in New York since 1855-'56.

Q. Are you one of the architects who competed for plans of the post office and court-house building in this city, by direction of the commissioners?—A. Yes, sir; about the time of the competition, I was appointed to go out as one of the architectural jury of the Paris Exposition; I had been engaged as one of the committee to assist Mr. Derby, in the American department of the French exhibition; I finally went out as a member of that jury, and left a sketch of the post office building in my office, to be carried out by my men; that sketch was carried out during my absence.

Q. Are you one of the five architects who unitedly produced the plans and specifications which were submitted to Congress by the commissioners?—A. Yes, sir.

Q. State whether you personally assisted in the making of those plans?—A. I did.

Q. And they received your approval, of course?—A. In some respects they did; in other respects they did not.

Q. State in what respects they did not?—A. When the first prizes were given out, on the first competition, the commissioners, as I was informed, could not decide upon any one design as being exactly fit and proper for the building. The commissioners had a meeting in the Bank of Commerce building, and called us there, and told us that no one of the designs suited them sufficiently well, so that they felt like recommending it, but that there were things in each of the designs which they liked; and that they had a proposition to make to us, to which they would not ask for an answer that day, as it was rather a novel proposition to make. Their proposition was that we should all get up a design together, under the supervision of a special committee that would be appointed. To this proposition we assented; and they appointed as such committee, Mr. Kelly, the postmaster, for the post-office part of the building; Mr. Courtney, the district attorney, for the court-house part of the building; and Mr. Rogers. Then we went to work, and in about a month or six weeks had prepared the designs, specifications, and estimates. In the plan thus agreed upon there were several things which I did not like; but I gave it my approval in general, as it was as near as we could get to what the committee wanted.

Q. State whether those plans and specifications were made by the architects in good faith so far as you were concerned, and so far as your knowledge extends?—A. Perfectly.

Q. Did you ever state to any person anything to the contrary?—A. Never.

Q. Did you ever tell any person that you never would have signed those plans and specifications if you had supposed that they would have been submitted to an architect?—A. Never.

Q. Was there any expectation on your part that you would have a job out of the building?—A. Never. I recollect telling Mr. Renwick that I never expected we would carry out that plan. There was a talk of one or two "rings," and of some iron "rings," in Washington, that wanted to have the building put up in iron. So far from my desiring or expecting to get a job in connection with the building, I may state that when the post-office committee came to New York, a short time after we had completed our designs, I was otherwise engaged, and did not see even a single gentleman of that committee. If I had been very desirous of getting a job out of it, I would certainly have shown myself to the committee.

Q. State whether, from all the reflection you have had upon the subject since, you are still of the opinion that the building could have been constructed in accordance with those plans without any difficulty?—A. I think it could.

Q. Have you any doubt of it?—A. I have no reason to doubt it in the slightest. There may have been in the plan some omission of a column, or something of that kind; but so far as I recollect the plans, I have not the slightest doubt but that they could be carried out. In fact, I know they could. Complaint has been made that it is not practicable to use girders so large as some of those contemplated in the plan. They can be used. There is not the slightest doubt of it. Girders of that size have been built before, and can be built again. To say that the plan could not be so arranged as not to necessitate those girders, is one thing; but this part of the plan was dictated to us by the postmaster, who had control of that part of the plan of the building. It was merely the question, "Can that be done?" "Well, it *can* be done." "Then it *must* be done." That was the order. We were directed to make that open passage-way by Mr. Kelly, the postmaster, who had special charge of that part of the building.

Q. State whether the commissioners directed you to occupy all the ground which belonged to the United States by the building?—A. I will not be certain. I do not recollect about that, further than that both the post office department and the court department seemed to think that neither of them was going to have room enough.

Q. Have you seen the ground plan, prepared by Mr. Mullett, for the building as now being constructed?—A. I have just seen it this morning. I have seen the foundation plan; the plan for the first story is not here, I believe.

Q. By this plan of Mr. Mullett's, how much less area in square feet will the building contain than it would have contained as proposed by your plan?—A. I think about ten thousand square feet; certainly that much.

Q. State where this difference occurs?—A. On the north end of the building, so far as the plan indicates. It shows a strip of land about twenty-five feet in width, by the entire length of the land, which is three hundred and fifty-odd feet. Then, on the south end of the building, there are irregular projections, which leave a good part of that around the back end unoccupied; and if I understand the plan rightly, there are some five or six feet along Park Row also unoccupied.

Q. Did you and your associates make an estimate of the cost of a building according to the plans prepared by you?—A. Yes, sir, an estimate was made twice; Mr. Renwick and Mr. Lee Brun had charge of that, especially; and they went over with it twice; I assisted a part of the time myself. The estimates were gone over with very thoroughly and very carefully at least twice, and perhaps three times.

Q. Were those estimates intended to be close or liberal?—A. They were intended to be fair; what we would call *bona fide* estimates; that is, we really and honestly thought the building could be put up for that amount. You may call the estimates liberal. They contained everything we could think of.

Q. How does the cost of building in New York now compare with what it was at the time these estimates were made, as to material and labor?—A. I think they are more expensive now than they were then; not only as to cost of material, but from the demoralization of labor. Labor is more expensive now than it was then, but there is no *great* difference. I know that bricks are lower. Taking all things into consideration, there is no great difference, at any rate.

By Mr. FERRY:

Q. Were you paid by the government for your plans?—A. Yes; we were paid one thousand dollars, all five of us together. The work cost us twelve hundred dollars at least.

Q. Had you no hopes of having your additional plan adopted when you drew it?—A. Of course I had a hope, or I would not have gone into the competition.

Q. You speak of this plan being dictated by the postmaster and others, and that you drew it under their general direction. Did you not at the same time have an eye to your architectural plan, studying out your own idea, in order to have your plan adopted by the government; in other words, were not merely laboring for so much money, but to present a plan which would be adopted?—A. Yes; but there were a good many things in that last plan which, so far as I was personally concerned, I would have preferred to have had changed; but my *first* plan—the one which I had offered in competition—was the one which I had the most hope in.

Q. The main stimulus in that plan was the hope that it might be adopted by the government, and that therefore you would be selected as the architect of the building?—A. Yes, that was the idea in the first plan.

Q. In your second plan you were required to combine your five plans in one?—A. Yes, sir. It was my idea, and I suppose it may have been the idea of each one of us, that there were a good many things in that plan which we could ameliorate, if we had the time to do it. Four or six weeks was not time enough for getting up such a plan. That second plan I looked upon as merely a sketch of a building; that is, that we could greatly improve upon it with the same amount of material, if we had a little more time to study at it and work out all the details nicely.

Q. Can you make an estimate of the cost of the building by Mr. Mullett's plan, so far as it appears before you?—A. Decidedly not.

Q. Can you make an estimate upon the one that was decided upon by the commissioners; how long would it take you to make an estimate of the cost?—A. I suppose I could do it in a week or ten days.

Q. An estimate that would be accurate enough for you as contractor to be guided by in bidding for the work?—A. Yes, sir.

Q. Would you be willing to bid for the work at such an estimate?—A. Yes, sir.

By the CHAIRMAN:

Q. With reference to providing stairways for the judges, state whether the architects were or were not directed by the judges themselves as to whether they wanted private stairways or not?—A. I recollect that the plan for the court part of the building had to be overhauled twice. The judge wanted a plan somewhat similar to that of Mr. Le Brun, but then there came a collision; Mr. Kelly thought that the judges were using up too much of this story. They did not seem to agree among themselves upon this subject. But I do not recollect particularly about the stairways. Mr. Courtney wanted it one way, but Mr. Kelly seemed to think that would be taking up too much room; I remember that much about it.

By Mr. ADAMS:

Q. Would you have been willing to take the contract for the building at the price indicated in the estimates made by the five architects?—A. I would, if I had been in the habit of making contracts. But I would not take a contract for anything. In taking a contract the architect goes beyond his sphere. But I believe that to have been an honest estimate, and I believe that parties would have been willing to take the work at that estimate.

Q. You believe that there are plenty of parties who would have taken the contract at that estimate?—A. Yes, I believe so. It was honest, fair, *bona-fide* estimate.

Q. Do you usually make an estimate of the cost for a large building?—A. Not always, but as a general thing. It is quite exceptional when we do not.

By the CHAIRMAN:

Q. Do you know of a man named Hoyt, of Boston, in connection with this building?—A. I do not.

NEW YORK, December 29, 1869.

JAMES RENWICK sworn and examined.

By the Chairman:

Question. State your residence and occupation.—Answer. I reside at 28 University Place, in New York City. I am an architect.

Q. How long have you been an architect?—A. About thirty years.

Q. How much of that time have you been in New York City?—A. For the most of the time. I have put up buildings all over the country; but have very seldom left the city.

Q. Are you one of the five architects who united in those plans that were presented to Congress by the commissioners; and did you assist in making the estimates under those plans?—A. Yes, sir.

Q. State whether the estimates were carefully prepared.—A. We made them with the greatest possible care. We went over them twice, and, I think, a part of them three times. The prices we ascertained through mechanics in the city, where we did not know the exact prices ourselves.

Q. Did those estimates include everything that you could conceive of as necessary?—A. They included everything we could think of pertaining to the plans; and we had one or two items in of whose necessity we thought there was a doubt. Among the rest, an iron furring to the exterior walls, which, I think, might have been dispensed with. And beyond that we made the usual addition for contingencies.

Q. Have you any doubt about those estimates having been sufficiently liberal to have completed the building?—A. No, sir; none whatever.

Q. State whether those plans were or were not carefully prepared, and how they were prepared.—A. The plans were drawn after sketch-plans had been made that were satisfactory to the committee appointed by the commissioners. These sketch-plans were signed by the committee, Messrs. Rogers, Courtney, and Kelly. There were some certain things in those plans which they deemed of importance. After these sketch-plans were approved and accepted by them, we went on and made finished drawings. The architectural details of the work were originated by the whole five firms together, who were engaged in the plans; and in case of a difference of opinion between us, the case was put to a vote, and the majority ruled. Of course there were some things as to which we differed; but I think that, when the whole was finished, we were all satisfied that it would make a very elegant, simple, and grand building.

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Q. Have you any doubt as to the practicability of fulfilling those plans?—A. Not the slightest.

Q. Were you competitors under the advertisement of the commissioners in the first instance?—A. Yes, sir.

Q. And it was your plan which was combined with the other plan in the final arrangements?—A. You can hardly say that any of those plans were combined with the others. The ground plan was dictated by the committee; and upon that ground plan we put up a new elevation, which, though similar in some respects to the other plans, yet in many other respects entirely differed from them.

Q. What directions did you receive from the commissioners in regard to the extent of the area to be covered?—They wished to occupy the whole of the area owned by the United States. A discussion arose in regard to the steps on the north side jutting out on the park; the commissioners said there would be no difficulty in getting permission from the city to occupy the ground needed for those steps. I remember from that fact that they wanted us to cover the whole ground. The whole ground was covered, as nearly as possible, consistent with architectural effect. There was some little space lost on the south side. The only difficulty we found with the committee was, they wanted all the room, and it was some time before we could reconcile them to giving up their opposition to the loss of any space.

Q. State what instructions were given you in reference to the construction of a drive-way for the reception of the mails?—A. That was made a *sine qua non* by the committee. We proposed, on account of economy, to put a row of columns through the center of this drive-way, but the committee insisted on having the whole of it open. Then it became a question of expense, merely. The bridging of fifty, or a hundred, or two hundred feet with iron, is a mere matter of expense. Iron beams have been built sufficiently large to carry a train of cars over a space of four hundred feet. The Menai Strait bridge is a hollow iron beam; and the bridge across the St. Lawrence is of the same kind. A compound girder, such as we then proposed, is a tubular bridge. We proposed to make those girders tubular; that is, there were to be two diaphragms, the bottom and the lower flange; they were to be four or five feet deep, and to be connected together on each story by iron truss frames of sufficient strength to carry a railroad train across them without difficulty. They were to be connected by wrought-iron ties and bridge frames, which would make the whole thing one perfect bridge from top to bottom. I have done some work in wood, of forty-five feet span, for Cozzens's Hotel, West Point; and builders are doing equally difficult things constantly. It is done in many hotels, where they have a large parlor built and smaller rooms above, in order to support the partitions and floors. That is all we had to do here.

By Mr. TWICHELL:

Q. Do you agree with Mr. Hunt, that you would not have left this drive-way open the whole width of fifty-seven feet but for the directions of the postmaster?—A. I think myself that if we had put a row of columns through the center we could have saved money, because we could then have made those beams so much smaller.

Q. Would it not have added to the safety of the structure?—A. I do not think that the safety of the structure was in question at all; it was simply a question of expense and convenience, not of safety or stability. If you should come to me and insist upon having me put an iron beam under your roof of a hundred feet span, I would do it, but you would have to pay for it.

Q. The question is, whether a girder of fifty-seven feet span is safe for that structure.—A. Certainly; perfectly safe.

Q. How would you have supported it under the ends but for the requirements of the postmaster?—A. We would, as a matter of economy, have made use of smaller beams. I thought that those large beams would cost a great deal of money.

By the CHAIRMAN:

Q. It is objected to the plans of the New York architects that they occupied all the lands belonging to the government on the north side of the area, and that the city of New York might hereafter erect a building abutting on the end of the post office building, which would shut off the light. State if anything was said to you by the commissioners upon that subject.—A. That question was raised at the time; I think we raised it ourselves. It was the understanding, with reference to the park, that it would always be kept open. There was no positive agreement about it, but it was the opinion of all the commissioners that the park never would be closed, and they directed us accordingly to occupy the whole ground on that side.

Q. If a building were erected between the post office building and the City Hall so as to shut off the light from the post office building, would it not shut off the light from the City Hall also?—A. If they should erect a building near enough to the post office building to shut the light out from it, they would also shut the light out from the building so erected; and if it were near the City Hall they would shut the light out from that building.

Q. In case the city should erect a building against this post office building, would there be any practical difficulty in the way of still using that part of it as an inclosed drive?—A. No, sir.

Q. And lighting it sufficiently?—A. There might be a difficulty in lighting the court-rooms, if they were built on that side.

By Mr. TWICHELL:

Q. Do you not want the twenty-four or twenty-five feet space for the steps which you propose to have there?—A. No, sir.

Q. Do you not want any room outside of the building for those steps?—A. We have, according to this plan, five steps outside of the building; but they can be put inside of the building without any difficulty. There is room in the vestibule for them.

By Mr. FERRY:

Q. Why are they put on the outside in this plan?—A. Because they look better. Mr. Hoffman, who was then mayor, was consulted upon the matter, and he said there would be no objection.

By Mr. TWICHELL:

Q. If you had your own way, as an architect, would you not have more than five steps?—A. No, sir; five steps is all that is requisite. I consider that it would be better to have the steps inside than outside, because they can be covered. You do not want to go up into a building by outside steps, especially in this climate.

By Mr. FERRY:

Q. Is it usual in this city for parties owning property to put up buildings abutting on each other, without leaving place for light?—A. No, sir.

Q. Do you know of any instances of large buildings being put up, one against the other, facing opposite ways, with no alley in the center?—A. I do not recollect any at present.

Q. You do not recollect any large, substantial buildings adjoining each other so as to exclude the light?—A. They could be lighted by sky-lights. A good many buildings in New York are lighted by sky-lights. We have a large court in the center of this building which lights it. The only difficulty in the way would be the position of the court-rooms.

Q. Is it customary to join buildings in that way, without leaving some space for light?—A. There are a good many large buildings joined without any space for light, which are lighted by courts in the center, or by sky-lights. That is very common, but it does not apply to large public buildings like this.

Q. Why not?—A. I think it would not do for a large public building like this.

Q. Suppose the city should sell the belt of land running along the north end of the post office for private purposes; might not the owner put up a building which would abut against the post office building?—Yes, sir; certainly, he might do that.

By the CHAIRMAN:

Q. That is the public park, is it not?—A. Yes, sir. That was a question which did not seem to enter into any of their calculations. We raised the question and they laughed at us. Even in such an event there would be no difficulty in changing the court-rooms to the other side of the building, so they could be lighted from the open space in the center.

By Mr. FERRY:

Q. Was it your judgment that the building as proposed by the commissioners would be as substantial a building—would last as long—as other buildings of like magnitude?—A. Yes, sir.

Q. You think it would be perfectly stable?—A. Yes, sir. We calculated the strength of all the pillars and columns in the building.

Q. How long would it take you to make an estimate of the cost of this building?—A. I think we were about ten days in making the estimates before.

Q. In your experience as an architect, do you know of such estimates being usually followed by contractors and builders?—A. I would not let them follow them, of course. I would generally, if necessary, guarantee my own estimates to within five per cent.

Q. Then you wish to be understood as saying that in ten days you can make such an estimate upon that plan as you would guarantee to within five per cent.?—A. Yes, sir.

By the CHAIRMAN:

Q. Can you make any safer estimate than you have already made?—A. We went over it very carefully; we were very particular in procuring the prices of all the materials, where we did not ourselves know the prices, especially of the large iron beams, as they were rather extraordinary work.

By Mr. FERRY:

Q. Is it usual for large buildings to be put up without estimates of the cost being first made by the architect?—A. It is not; a house which would cost eighty thousand dollars, for instance, we always make estimates on.

By the CHAIRMAN :

Q. Is it not entirely practicable to make estimates for large buildings before commencing the work ?—A. Yes, sir ; and it ought always to be done.

Q. Is it not usual to let all the contracts for work to be done on buildings before commencing the construction of them ?—A. Yes, sir ; that is always done in New York. The work on such buildings as churches, Booth's theater, Young Men's Christian Association building, &c., is generally let by the thousand for brick. In building the large lunatic asylum on Ward's Island, which is to cost three hundred thousand dollars, the plans and specifications were all made sufficiently accurate for contractors to estimate upon. The bids for the whole were taken before the work was commenced ; that is the general rule. There are always exceptions, as in Booth's theater, where there was sufficient confidence in the builder to let him go on and do the work, and trust to him to be fair in his charges ; but generally it is not so.

Q. Do you know of any "ring," or did you then know of any "ring," that was seeking to get the contract for this building ?—A. No, sir.

Q. Had you anything to do with any contractor, who was seeking to obtain the contract, when you made the plans and specifications ?—A. Not at all.

Q. You are not a contractor yourself ?—A. No, sir.

By Mr. FITCH :

Q. In the event of a change in the plan of the building now being constructed, would the work already done be lost, or could it be used to advantage ?—A. That would depend entirely upon whether the new plans would be formed upon the plans as commenced.

By the CHAIRMAN :

Q. How as to the area wall ?—A. That is all perfect as it is ; there might be some change necessary.

Q. If, for instance, it were deemed advisable to change the present plan, and to construct the building upon the plan of the committee of architects, could it be constructed upon that plan now without loss to the government ?—A. No, sir ; I understand from Mr. Smith, the assistant superintendent, that he has commenced the piers, and of course those piers would not fit our building.

Mr. Smith, who was present, remarked that nearly all the cellar piers were cut, and nineteen were already set.

Mr. FITCH to witness :

Q. Are you able to say how much or about how much loss would be occasioned to the government by the change ?—A. We can use all the granite over again : I cannot say as to the brick.

Mr. Smith remarked that there was no brick laid, but that the concrete foundation was all in.

Witness said that concrete foundation would have to be changed.

By the CHAIRMAN :

Q. The area walls might remain where they are ?—A. Yes, sir.

The chairman requested the witness to look at the building in the course of the day.

By Mr. TYNER :

Q. What is the cost of building now, as compared with the cost when you made those estimates ?—A. About the same ; bricks are a little less, I think, but I do not think there would be much difference on the whole.

Q. Then you mean to say that you think the building could be erected now, according to the plans which you submitted, for the estimates you then made ?—A. I think so.

By the CHAIRMAN :

Q. How about that private staircase for the judges ?—A. We asked that question of the judges, but they did not seem to care about them ; we thought they might be wanted for juries, but the judges did not seem to lay any great stress upon their necessity ; we left in our plan a vacant place in which a private staircase could be placed, if required ; we also designed a large room for lawyers to assemble in, but that was objected to on the ground that it would be a place for loafers. The question of wooden doors was also talked about, but the committee said that iron ones would be much better, for wooden ones would be cut to pieces in six weeks.

By the CHAIRMAN :

Q. Do you know of a man named Hoyt, of Boston, in connection with that building ?—A. No, sir ; the last plan made by the architects was the section ; we were obliged to deliver these plans to the commissioners by a certain day, and we had not time to indicate the whole interior construction on that section ; there were parts of the plan which we did not intend to indicate ; they were our own property, and we thought we had a right to them as such.

By Mr. TWICHELL :

Q. Then how could the government have gone on to make contracts without the whole of the work being specified?—A. We would have gone on and specified it.

Q. But how could the government have carried on that work according to the plans and specifications, when the whole of the plans and specifications were not before them?—A. The specifications *were* there.

Q. But the drawings did not, I understand you to say, show the entire plan?—A. They could not show it very distinctly; they were too small; there are things in the drawings which have to be explained in the specifications, unless there are more drawings made than we made.

Q. Then you have not made drawings sufficient to illustrate your whole plan?—A. There would be no difficulty in an architect who understood his business carrying out those plans from the drawings; they are as complete as the drawings of any builder; of course there are working drawings to be made afterward.

Q. The working drawings you have never furnished?—A. We were not required to furnish them; we agreed to furnish so many ground plans, so many elevations, and a section.

Q. The question is, whether a contractor could have made his bid, and carried it out understandingly, from these plans?—A. Yes, sir; with the proper explanations; the architect who makes the plans is the proper person to explain them.

By the CHAIRMAN :

Q. These plans are what you make for other parties?—A. Yes, sir; that one of the section we would have made fuller if we had had the time; we supposed, of course, we would be asked how certain things were to be done, and that, if the job were let, the contractors would come to us for explanations.

By Mr. TWICHELL :

Q. But if you were to ask an architect to take these plans and carry them out, would he not tell you that he could not unless he applied some of his own skill and ingenuity to them?—A. I think that an architect would be as able as any one of us to carry out those plans, if he were an architect.

By the CHAIRMAN :

Q. State whether those plans do not show the other girders on each story?—A. Yes, sir; they show the lines of the girders all through.

Q. From these drawings it would appear as if there were no other support except from end to end.—A. It might appear so to a person who did not understand the principles and practices of architecture, but a man of skill and ability in his profession would certainly connect those beams.

Q. Then would you be surprised if an architect should say those plans were perfectly impracticable as they are?—A. Yes, sir; I would be very much surprised indeed; the working drawings were not made; we were not requested to make working drawings; to do so would have taken four times as much time as we had; we make a working drawing of every different ornament about the building; Mr. Le Brun prepared a full and complete set of specifications.

NEW YORK, December 29, 1869.

PAUL SCHULZE sworn and examined.

By the CHAIRMAN :

Question. State your residence and occupation.—Answer. I reside at 108 Rivington street, New York; my office is at 93 Liberty street; I am an architect by profession; I have followed that profession in the city of New York since 1858, and in the United States since 1849; I have studied architecture since 1841; I have been concerned on government buildings before I came here.

Q. Are you one of the architects who made the plans for the New York post office and court-house, which were presented to Congress by the commissioners?—A. Yes, sir.

Q. State whether those plans were made in good faith.—A. Yes, sir; so far as I know, they were.

Q. Did you make any calculations as to getting the work?—A. We had the promise of the committee that they would do all they could in recommending us, provided we would give an acceptable plan.

Q. Then you made a plan which you believed you could work up?—A. Yes, sir.

Q. State whether in your opinion there would have been any difficulty in carrying out that plan in the construction of the building?—A. Not the least.

Q. Did you assist in making the estimates?—A. No, sir; the work of making the estimates was given into the hands of Messrs. Renwick, Le Brun, and Hunt. While they were making the estimates we were employed on the drawings.

Q. What is the comparative cost of building then and now, in New York City?—A. So far as I can say, it is from five to ten per cent. less now than it was then. Labor is cheaper,

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but you cannot do so much with men as at that time. So, although labor and material are cheaper, we lose something by the obstinacy of the workmen.

By Mr. TWICHELL :

Q. Do I understand you to say that labor is cheaper by five to ten per cent. than it was when those plans were made?—A. No, sir. I mean to say that taking all things together, I would calculate that building could be done at about five to ten per cent. cheaper than it could have been done then. Material is considerably cheaper. Labor is somewhat cheaper. But you cannot do so much with laboring men as you could then.

By the CHAIRMAN :

Q. Had you any knowledge of any "rings," as they are called—of any men who were planning or combining to make jobs out of the building, in connection with either the commissioners or the architects?—A. No, sir.

Q. You are not a contractor?—A. No, sir; architects never contract.

Q. In regard to the post office and court-house in New York City, what directions were given you with reference to occupying the entire area belonging to the government?—

A. When the question came up, I asked the commissioners particularly as to whether the plans should occupy the whole plat of ground; the commissioners who were present asked Mr. Hoffman what he thought about it. Mr. Hoffman said we could safely occupy the whole space; and that there would be no objection to our extending some steps upon ground which did not actually belong to the United States. Directions were then given us architects to make our plans to cover the whole plat of ground. In the opinion of the commissioners there was barely sufficient room for their purpose.

Q. So the outlines of your building were drawn in accordance with the directions of the commissioners?—A. Yes, sir.

Q. Have you any idea what this vacant space of land, left unoccupied by Mr. Mullett's plan, (twenty-five feet on the north side by three hundred and fifty feet in length, and containing about eight thousand square feet,) is worth?—A. Eight thousand feet of ground near the City Hall park is worth a fortune.

Mr. Hunt remarked that the site of the Herald building, which contained less ground, cost over half a million of dollars.

Chairman to WITNESS :

Q. State what directions the postmaster gave you with reference to enclosing the drive-way, or place for receiving and loading the mails?—A. He said that if the drive-way for mail-wagons were not enclosed, the watching of the mail matter would be an enormous cost to the government; and he also wanted the mail-wagons protected from the weather. For these reasons he wanted to have the whole under cover, and to have only two entrances. He was very particular when we drew the side-lights that light should be given to the drive-way; and was very particular that it should be made secure in every way.

Q. An objection has been made to your plans, that in consequence of the drive-way being inclosed there would be vibration and noise caused in the court-room by the running of the wagons across the pavement.—A. That would depend altogether upon how the drive-way was constructed. A drive-way could be so constructed that there would not be the least vibration in the court-room, or any other part of the building. It is only a question of expense. There are perhaps a dozen different ways of getting rid of vibration. The pavement of the drive-way might be entirely disconnected from the outside walls.

Q. Is there any difficulty in paving a road so as to muffle the noise of passing wagons?—A. Not a bit.

Q. Have you examined those estimates for the building yourself?—A. All of us went over the estimates together, and over every item; and we had several consultations upon various points. Some thought that the prices for certain things were high or were low, and so a consultation would be held and a price fixed upon; and the estimates were finally submitted to all and agreed upon by all. But the work of getting up the estimates was in the hands of the three gentlemen before named. I believe that the estimates are correct; and that the building could be completed for that amount now, and could have been then.

By Mr. FERRY :

Q. Was there any combination between you five architects, or did you act independent of each other?—A. So far as these last plans are concerned we acted in concert.

Q. I am speaking about the original plan submitted.—A. We were in competition then, on our own independent plans.

Q. Was there any "ring" of architects, for the purpose of getting hold of contracts, or doing anything that would be considered an illegitimate business?—A. The first notice I had in regard to the premiums was a notice from the chairman of the commission that it was desired that five of us architects should meet at a certain place. We five did meet. Only one or two of the five had any information from the commissioners as to why we were requested to meet. It was said that the commissioners had hinted that it would facilitate their decision a good deal if we could work harmoniously together upon a new plan. We took a vote upon the question, and decided that it was possible for us to do so.

Q. Then the suggestion of a united plan came from the commissioners, and not from the architects?—A. Certainly not from the architects. I never thought of it until it was spoken of by the commissioners.

Mr. Hunt here remarked that before that time he had not met either Mr. Schu ze or Mr. LeBrun.

Mr. Renwick remarked that he had seen Mr. Schulze before that, but did not know that he was one of the five invited to meet on that occasion until he did meet him there. At first three architects were called, but two others were afterward added to the list; the commissioners then explained their reasons for extending the invitation, and asked if it were possible for them to unite on a plan. The suggestion of acting together in the forming of a plan originated entirely with the commissioners.

NEW YORK, December 29, 1869.

N. LE BRUN sworn and examined.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside in Winthrop Place, New York City. I am an architect by profession.

Q. Are you one of the five architects who together prepared the plans for the New York post office and court-house?—A. I am.

Q. Also one of the original competitors for the design of the building?—A. Yes, sir; my plan was adopted as deserving of a premium, along with the other four, and yet none of them was exactly what was wanted. I was requested by the commissioners to join with the others in preparing a plan such as they (the commissioners) would consider fit for the purpose, to be accompanied by an outline specification and general estimate of the cost.

Q. State whether the plan as finally produced by the five gentlemen was carefully prepared, and made in good faith, with the honest desire to subserve the government so far as you were concerned.—A. It was carefully prepared, in good faith, and with an honest desire to subserve the government. Every point regarding the construction and exterior design of the plan was criticised among ourselves, and our decision upon disputed points was arrived at generally by a vote, in which the majority ruled. There was, however, but little difference of opinion that necessitated the taking of a vote.

Q. State whether it was made a *sine qua non* by the commissioners that you should occupy all the ground belonging to the United States.—A. We were instructed to occupy all the ground owned by the United States up to the north line, and we did so in our plan.

Q. Was the subject of the light on the north side of the building being obstructed by the future erecting of some other building there canvassed by you and the commissioners?—A. It was.

Q. What was said about it?—A. The commissioners, and the sub-committee appointed by them, instructed us that, notwithstanding the ground north of that line was not owned by the United States, we should place windows and entrances on that side of the building, the same as if the government did own the ground adjacent. The commissioners said they had been assured that there would be no obstruction or molestation on the part of the city.

Q. Have you any doubt as to the feasibility of erecting a building according to those plans and specifications?—A. Not the least. We were told to make that northern passage or drive-way as wide as you see in the plans; and it became merely a matter of calculation with us to determine how long and strong to make the girders so as to span the space—how much it would cost, &c. The span of the girders is not fifty-eight feet, as has been stated. There are five girders. The two end ones, which support the greatest amount of weight, are not fifty-eight feet span; they are, I think, forty-two feet. There are five on each side, making ten in all, of which the two extreme ones support the walls. There are three intervening ones—one on each pier.

Q. How large are those girders?—A. They were calculated to be four feet deep—tubular or compound girders. They are not specified in this outline specification. This we called merely an outline specification, not a detailed one; this was all we were called upon to give. In the matter of the girders, we stated that all the girders for the support of the floor were to be made of railroad iron, properly framed and bolted together, so as to give ample strength to every part of the building.

Q. Did you assist in getting up the estimates?—A. I did.

Q. State whether they were carefully and conscientiously prepared.—A. Mr. Renwick, Mr. Hunt, and myself made the estimates. While making them we had many meetings, extending over ten days. We went over the estimates three times. Mr. Hunt went over a part of them with us twice, and Mr. Renwick and myself three times, before we had satisfied ourselves that they were within bounds.

Q. State whether those estimates are large enough.—A. In my opinion they are amply large enough.

Q. Have you any doubt that the building could be constructed within the amount so estimated?—A. It could be, provided honesty were the rule, and provided the bidders were persons who could be relied upon to carry out their contracts. Contracts are sometimes made so extremely low that, unless the contractors are very wealthy, the contracts are sure to be laid aside and the work afterwards carried on by the day, which always results in the building costing more than was estimated.

Q. Suppose that the party were required to give bonds for the fulfillment of the contract, and that twenty-five per cent. of the amount were retained.—A. In respect to that, I believe it has been found that when the contractors are not good men, it is not for the interest of the government to contract with them, even though they do give a bond.

Q. In other words, you would not contract with bad men any way?—A. No, sir.

Q. You would make *bona fide* contracts?—A. Yes, sir; at honest, living prices, that would enable the contractor to perform his contract.

Q. Were your estimates intended to be sufficiently liberal to allow of the contracts being fulfilled?—A. They were so intended.

Q. Were they so liberal, in your present opinion?—A. They were.

Q. How long have you been an architect?—A. I commenced my studies in 1836, and commenced practicing in 1841; I have been in the practice of the profession ever since, excepting two or three years. I was engaged in my native city, Philadelphia, until 1862. I have resided in New York since 1864.

Q. Did you expect to get a contract, or job, or any benefit out of this building?—A. No, sir.

Q. Were you connected, in any manner, with what is called a "job," in connection with the building?—A. Never.

Q. Or with "jobbers," who were planning, or hoping to make money out of the government?—A. No, sir; I have never been connected with any thing of the kind. Mr. Mullet has calculated his building to cost about a million dollars less than ours, but I do not see how he does it. We have estimated the digging and excavating at ninety cents per yard; he places it at seventy-five cents. He has put his floors, including iron and wood-work, all complete, at one dollar a foot; on our plan he puts it at \$1 60 a foot, without the flooring being made. That general advantage in his own favor runs through all his estimates. Besides, his estimates are upon the assumption that the two buildings are of the same size; when, in making any comparison as to cost, it should be remembered that his building is from ten to eleven thousand feet less than the building we estimated for.

Q. State whether it is practicable and usual to make estimates of the cost of buildings before commencing their construction?—A. Yes, sir; almost invariably, except for some very small job. In large buildings it should be always done.

Q. You first count the cost?—A. Yes, sir; with small jobs we can guess the cost near enough by comparing it with similar work, but in large buildings we make more careful estimates.

Q. Is there any practical difficulty in the way of not only making estimates but of making contracts for the entire completion of a building before commencing it?—A. There is not. These plans, however, were not made for a contract to be based upon them; they were simply designed to show what the general idea was, and to furnish a general outline specification, which was all that was asked of us by the commissioners. Not even a detailed specification was intended. If the building were to be put up, working drawings would have had to be made afterwards.

Q. State whether an architect could take these plans and specifications and make working drawings from them.—A. Yes, any intelligent architect.

Q. Are they so planned as to deceive any intelligent architect?—A. No, sir; they are not.

Q. Would it be necessary for a good architect to come to you particular architects for explanations of these plans and specifications in order to let the contracts?—A. No, sir; any intelligent architect could make all the necessary drawings and specifications from those plans, if he were informed of the general design intended to be carried out.

Q. Your estimates were carefully prepared?—A. Yes, sir.

By Mr. TWICHELL:

Q. What is the scale on which this plan of yours is made?—A. Ten feet to the inch, I believe. This section through the court room does not show the girders; the depth of the girders is four feet.

Q. The whole heft of the dome is shown in the section?—A. No, not the whole heft of the dome.

Q. I understand you to say that this plan covers the whole ground?—A. Yes, sir.

Q. Does not this staircase extend beyond the ground?—A. Yes, sir; the steps extend five feet beyond the ground; but the plan is so arranged that the steps can be put up inside, if necessary. These five feet that the steps project beyond the line are the same number of feet that the steps of houses in New York are allowed to project beyond the line of the houses.

Q. But this is not a street.—A. No, sir; but a street would be more public property yet.

An arrangement was made to place steps within the portico and within the dome, in case they could not be constructed outside.

Q. I understand that these long girders were designed for the open space that was to serve as a drive-way to the post office.—A. Yes, sir.

Q. You, as architects, would not have left that space without support, if you had not been so directed?—A. It would be only a question of how strong girders would be required.

Q. Supposing you were directed to have an open space there for drawing in wagons, how would you provide for it?—A. We might do as is arranged here, by girders.

By Mr. FERRY :

Q. Suppose that you had placed pillars there, and it had been represented to you that they were inconvenient and must be dispensed with, what would you then have done?—A. Taken them out and made the drive-way open, as in this plan.

Mr. Renwick remarked that the postmaster had represented the number of four-wheeled wagons that would necessarily be in the drive-way at one time, and the number was so great that it was impossible to leave the columns in. The postmaster had stated that there were sometimes three hundred tons of mail matter received in one day from one vessel.

Mr. TWICHELL, to witness :

Q. I suppose that no architect would have left that fifty-seven feet there to be supported by girders, were he not compelled to do so for the sake of room.

By Mr. HUNT :

A. The girders increase the space—leave much more room.

By Mr. TWICHELL :

Q. Architects would differ entirely as to its being safe, would they not?

By Mr. RENWICK :

A. No, sir.

By Mr. FERRY :

Q. Is it a question of safety, or merely of economy?—A. Merely of economy; there would be no difficulty in making a span of four hundred feet.

By Mr. TWICHELL :

Q. Would you, as an architect, recommend to any body, or would you yourself put up a building to be lighted in this manner, without first making sure that there would be an open space on the north side?—A. I would certainly want to know, of course, whether I could rely upon having light from that direction. But we had nothing whatever to do with that matter in making our plan; we were told to cover the whole size of the lot, and were assured that there would be no interference with the building.

Q. But would you recommend building up to a point where your light could be cut off, unless you relied upon getting light through the roof instead of from the side?—A. If it were my own private property I would not, unless I were assured that my light would not be interfered with; and I would act the same way in regard to public property, to whatever extent I had any control of the matter. But if I was told by the persons for whom I was working that it was none of my business to be concerned about the light, that they took all the responsibility in regard to that, and that all they wanted of me was to put windows there, I would have no option in the matter.

Remark by Mr. FITCH :

Q. You would not count yourself responsible for anybody building up to them?—A. No, sir.

By Mr. TWICHELL :

Q. In case a building was put up there, on the north side, would it not destroy this present plan?—A. Of course it would, for the purpose of a court-house.

By the CHAIRMAN :

Q. Do you mean to say it would destroy the building, or only shut out the light?—A. It would shut out the light and we would have to change the position of the court-rooms.

Q. You would have to go somewhere else for light?—A. Yes, sir. We have sky-lights over each of those court-rooms.

By Mr. FITCH :

Q. Suppose a building were to be put up along the north side, how would you supply light to the post office building?—A. Either by a change in the post office rooms or by sky lights.

By the CHAIRMAN :

Q. Could such a change be made?—A. It could be.

Q. You would have to carry the rooms to the light?—A. Yes, sir.

By Mr. TWICHELL:

Q. Then, as a matter of prudence, would you not recommend that the government should so construct its buildings that there could be no possibility of its being deprived of the use of the finest part of them?—A. An ordinance could be obtained from the city council; I think it would be proper to make assurance doubly sure in the matter.

By the CHAIRMAN:

Q. Is it, or is it not, practicable to use the whole area belonging to the government there, even supposing that the city should put up a building on the north side of it and close to the line?—A. It is practicable.

Q. Do you think it would be wise for the government to throw away the use of that strip of eight thousand square feet of land?—A. I do not.

Q. Not in any event?—A. Not in any event.

Q. The building could be very easily arranged upon a different plan, even if a building were put up alongside of it by the city?—A. Yes, sir; I consider the strip of land entirely thrown away; it is not used, either above or below.

Q. By your plans, all this land is used?—A. Yes, sir.

Q. In the basement, and first, second, and third stories?—A. Yes, sir.

Q. Supposing the city should build up abutting it, would there be any difficulty in so arranging the rooms as to light them all?—A. None whatever; we could light them from the interior court yard or by sky-lights.

By Mr. TWICHELL:

Q. Is not this drive-way by your plans thrown away for all purposes except a drive-way?—A. No, sir; the space under the drive-way and over it is within the building, and used.

Q. How does this plan of yours differ from the plan on which they are now at work?—A. It differs from it in this: that plan gives you no benefit of the ground under the drive-way nor over it, and the building is twenty-five feet shorter than by our plan.

Q. This twenty-five feet, if used as a drive-way, is not thrown away then?—A. I did not say it was thrown away.

Q. You leave yourself liable to be cut off from light if you build over it?—A. But it does not follow that it *will* be the case.

By Mr. TYNER:

Q. Were you not advised by the commissioners, by the postmaster, and by the law officers, that all the room you could possibly put into this building would be needed?—A. Yes, sir.

Q. And was there not complaint about the room being insufficient? Did not the postmaster and district attorney both seem to want more room?—A. Yes, sir; Postmaster Kelley wanted more room, particularly in the first story, and was very sorry the lot was not larger.

Q. Supposing this building should be put up in accordance with your plan, and that afterwards the authorities of New York City should put up a building in such close proximity to it as to shut out the light from the north side, would it be practicable then to so change the building already built as to get the benefit of the light from the open space in the center of the building?—A. Certainly, sir.

Q. Would it be practicable to change it so as to secure *sufficient* light?—A. Yes, sir; and the change could be very easily made.

By Mr. FERRY:

Q. In the event of that hypothetical obstruction of the light, what would it cost so to change the interior of the building as to admit adequate light?—A. I will make an estimate upon that point and be prepared to answer in a day or two.

Witness subsequently stated that he had made an estimate, and fixed the cost of such change at fifteen thousand dollars.

Witness also subsequently stated that he had made an estimate of the number of feet lost by the plan under which the building is being erected; it amounts to about eleven thousand feet.

NEW YORK, December 29, 1869.

JOHN CORREGIA sworn and examined.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside at 131 Schermerhorn street, Brooklyn; I am an architect; have been in the business about eighteen years.

Q. Are you one of the five architects who united in producing this plan?—A. Yes, sir.

Q. Did you compete in the first instance, under the advertisement of the commissioners, by making a plan which received the premium?—A. I did.

Q. Have you any doubt as to the practicability of the plan determined upon by you five gentlemen?—A. None whatever.

Q. Do you agree with the other four gentlemen who have certified here as to the estimates based upon that plan?—A. I do.

Q. Have you any doubt that the building could be constructed for the amount estimated?—A. I have no doubt of it whatever.

Q. Did you know of any ring of jobbers who were in any matter connected with any of the architects engaged in producing this plan?—A. I do not. The other architects were all strangers to me, except Mr. Renwick, and I was by no means intimately acquainted with him. The request that we should make a plan conjointly came from the commissioners.

Q. I understand that by your plan this building was to be entirely fire-proof?—A. Yes, sir.

Q. You did not propose to use any wood in it?—A. Very little, if any.

Q. It is complained of these plans that too much iron is used by them in the matter of doors, and window-frames, and partitions. State how that is—why so much iron was to be used, according to this plan.—A. The doors, and windows, and partitions were to be of iron, so as to make the building strictly fire-proof, and also because iron is a much lighter material than brick. It was used as a matter of economy in reference to constructive material. Where you carry brick walls over wide spaces, the weight of material necessary to be used is much greater than when iron is used; besides, when constructed of iron, any changes that may afterwards become necessary are much more easily made.

Q. Do I understand that under your plan wooden doors and window-frames can be used?—A. They can.

Q. Without changing the plans?—A. Yes, sir; it is only a matter of dollars and durability.

Q. If wood were desired instead of iron for those purposes, it could be used instead of it?—A. Certainly; no trouble about that.

Q. How about those girders, to which objection has been made? Is there any practical difficulty about them?—A. None whatever. There has been a good deal said about those girders, but they are really a very small affair. Any one who would hesitate at a fifty-foot girder has certainly never had much practice as an architect or engineer. A forty-five foot span is really very small. You may find wooden spans in this city as much as thirty-three feet wide. I believe that some of the spans in the new court-house are thirty-five feet wide. There is no trouble whatever in making spans one hundred or one hundred and fifty feet wide with iron.

Q. Can you point the committee to any girders of the same size, supporting any considerable weight?—A. I refer you to the new court-house in this city.

Q. That is the largest one you know?—A. It is the largest one I think of at this moment.

Q. What is the entire length of that?—A. I do not know.

Q. State whether the matter of spanning with girders is a question of economy or a question of practicability?—A. We consider it as a matter of necessity.

Q. As to its practicability, is it practicable to make a span of that size?—A. Yes, sir; decidedly.

Q. Is it as safe as it is to make a shorter span?—A. Of course it is not.

Q. Can you make it as safe?—A. Yes, sir; we can make it as safe. We can make a beam to span that space perfectly safe.

Q. Have you any doubt of the safety of this building with four-foot girders?—A. No, sir; not a particle. We used girders there, because that space was absolutely required for mail-wagons, drawn by four-horse teams, which must be turned around in there.

NEW YORK, *December 29, 1869.*

The members of the committee, and the architects, having visited the site of the new building and examined the works there, returned to the committee-room, and, Mr. Renwick having been recalled, the examination was renewed, as follows:

By the CHAIRMAN:

Question. State whether you have examined the work on the post office building since you were last before the committee.—Answer. I have.

Q. In connection with whom?—A. With the other four architects.

Q. By whom were you shown the work?—A. By Mr. Smith, the superintendent.

Q. Have you made an estimate as to how much of the work already done would be useless and lost by changing the foundations of the building, so as to conform to the plan submitted to Congress by the commissioners?—A. We considered that fifteen thousand dollars would change the piers. If the whole ground is to be covered, it will be necessary to put a concrete foundation on the north side, which would cost say five thousand dollars more. That, however, would not be a loss, as the concrete foundation would have to be there anyway, if the whole ground were covered.

By Mr. FERRY:

Q. That is not yet finished?—A. I understand by Mr. Smith that the concrete is laid on

the north side. To continue it to the limits of the building, if erected according to the plan of the commissioners, would cost about five thousand dollars more. The retaining wall to support the sidewalks is the same as it would be under the commissioners' plan. The whole loss would not exceed twenty thousand dollars. The piers already constructed, and being constructed, are built solidly of granite, and of very good size; some of them of a much greater size than is necessary for the support of the building; some of them are eight feet by ten, solid granite.

Q. How large ought they to be?—A. I think they should vary from four feet square to six feet square, depending upon their distance apart and upon the points to be supported.

Q. Then you think there is more material used in the piers than is necessary?—A. Yes, sir; they occupy a good deal of room in the cellar, and of course add very materially to the expense of the building.

Messrs. Hunt, Le Brun, Corregia, and Schulze each concurred in the statements made by Mr. Renwick.

Mr. TWICHELL to Mr. RENWICK:

Q. Do you admit that the work, so far, is a good work?—A. It is very good work. The only fault we find with it is, there is so much of it. There is a waste of material in the granite piers. The work is thoroughly well done; it is very good granite, and very well cut.

By Mr. BOYD:

Q. I would like to know how material is used in the piers that ought not to be used?—A. That is a very difficult matter to state exactly. I think that fully one-half the cost of the piers might have been saved. It would be perfectly safe to say one-half.

By Mr. TWICHELL:

Q. You do not include in this estimate the material that is to come and which you have not yet seen?—A. No, sir; we supposed that if there was much more stone cut, it would be but a very small matter to change its form. It would only be necessary to dress a new face.

By the CHAIRMAN:

Q. State whether it is not well understood among scientific architects precisely how large granite piers should be in order to support a certain weight.—A. Yes, sir; I suppose the supporting power of different kinds of granite is pretty thoroughly known to government engineers. We can always get from them the actual crushing weight of any granite they use.

By Mr. TWICHELL:

Q. Does not that, after all, depend somewhat upon your foundation, whether it is more or less compact?—A. Certainly; the size of your foundation would of course depend upon the nature of your soil; on a rocky soil, you would put your piers directly upon the rock, which would take the place of concrete, stone, or whatever other material might be used, to furnish a firm foundation; if you are building upon sand, the foundation should be commenced broad, and gradually drawn in till you come to the size of the pier. There is no better foundation known than sand, except solid rock. This post office has a very homogeneous and admirable soil for a foundation.

(Witness subsequently came before the committee, and stated in reference to the possibility of a building being erected close up to the New York city post office building:

In that case, it would only be necessary to enlarge the sky-light in the center, so as to give light to that part of the building. The ventilation of the court-rooms would be effected entirely from the open space in the center, without the necessity of opening a single window.)

By the CHAIRMAN:

Q. What would be the expense of making these changes in the building?—A. About twenty-five or thirty thousand dollars.

(Messrs. Hunt, Le Brun, and Schulze severally concurred in the statement made by Mr. Renwick.

Mr. RENWICK added:

Under any circumstances, it would certainly be wise to occupy the whole ground with the building, because a court could be put in that would light the whole thing thoroughly. A glass roof, fifteen feet over the drive-way, would light the whole. The court-rooms could be arranged in the same way, with a wall and glass roof, and could be lighted for twenty-five thousand dollars, without changing the location of the rooms. The plan proposed is, to make a sky-light for it like that over the hall of the House of Representatives, and the location of the rooms would not want to be changed at all. The only rooms below are these two here, (indicating them on the plan,) which could be lighted by a sky-light fifteen by eighteen feet; this would also light the judges' chamber below. All this in case a building should

ever be put up against the north side of the post office building, of which there is not the slightest probability.

Q. State whether you have made any calculation in reference to the piers.—A. We made a calculation that a pier eight by ten feet will bear with safety a weight of fifty-six thousand tons.

Q. What weight are the piers required to carry by the plans?—A. We cannot tell; from four hundred and fifty to five hundred tons would be an ample estimating the supporting power of the granite at ten thousand per cubic inch. The largest piers we have provided for are about one-half that size, but brick.

NEW YORK, December 29, 1869.

J. T. SMITH sworn and examined.

By the CHAIRMAN :

Question. State your residence and occupation.—Answer. I reside at No. 20 West Forty-third street, New York; I am a builder.

Q. Are you employed on the post office building in this city?—A. I am.

Q. In what capacity?—A. As assistant superintendent.

Q. Did you have anything to do with the letting of the contracts?—A. No, sir.

Q. You have no charge of the letting of the contracts?—A. No, sir; the original contract for the rubble-stone was let, and when we were ready for it the contractor had not it on hand; so I was authorized to buy stone; his contract was for \$5 78 a yard, and I bought it from three different parties at \$5 a yard, delivered on the ground. I believe that that is the only thing of any amount that I have bought.

Q. How many superintendents are there on that building?—A. Only two; Mr. Hubbard and myself. We have a foreman mason, a foreman stonecutter, what they call a master-rigger, and we have a foreman over a gang of laborers.

Q. Are you getting some work done by the day?—A. Yes; it is being all done at present by the day.

Q. Do you hire the men yourself?—A. Yes, sir; I hire all the workmen; I reduced their rate of wages about three weeks ago; I had reduced all the men employed outside on my other contracts, and I reduced the men on this building, also; I have over two hundred men employed on other buildings that I am constructing.

Q. How many hours a day do the men work?—A. They go to work at 7; they have an hour for dinner at noon; then they work to dark.

Q. What do you pay laborers here?—A. We have been paying up to about the first of this month \$2 75 a day to mason laborers, \$2 a day to diggers, and \$5 a day to masons; I am now paying to mason laborers \$2 25 a day. We have no masons or stonecutters, I believe, at less than \$5 a day; their wages are usually \$6 a day, but we do not pay them more than \$5.

Q. Who is the disbursing agent or paymaster?—A. The disbursing agent is General Jones, the postmaster; the paymaster is Colonel O'Beirne; he pays all the men; I generally regulate the wages.

Q. He pays on pay-rolls kept by whom?—A. The time-books are kept by the foremen; and then the time is taken off these books every night by the clerk. The rule is that every foreman has to make his report every night; I generally look over the reports to see that they are correct; the money is paid direct into the men by the paymaster twice a month; I have regulated it just the same as we regulate work outside.

By Mr. BOYD:

Q. Who made the appointments of superintendent, assistant superintendent, and paymaster?—A. Secretary Boutwell, I think.

Q. Did you get your appointment from him?—A. I think it came indirectly from him; I took some letters to Washington once; I was recommended by a gentleman whom I had built for; I know that Mr. Mullett came for me; they were not getting along fast enough; I did not come on till the 7th of September; Mr. Mullett really appointed me.

Q. Who appointed the paymaster and disbursing agent?—A. I do not know; I suppose Secretary Boutwell.

Q. How many laborers have you at present?—A. I think about twenty ordinary laborers, only.

By the CHAIRMAN :

Q. The excavation is being done by the day?—A. Yes, sir.

Q. Do you hire the teams?—A. No, sir; I do not pay anything for teams; I am selling the sand; I get thirty cents a load for it; we simply hoist the sand out and help to load it; that is a good deal cheaper way of getting rid of it.

By Mr. TWICHELL :

Q. What is the cost by the yard of getting it out?—A. It was only commenced about the 30th of November, and we have not had long enough time yet to tell about what it does

cost: but I think that the money which we get for the sand will very nearly pay for the excavation.

Q. So that it is excavated at a very small cost?—A. Very small.

Q. It costs less than twenty-five cents per yard?—A. O, yes; I think that there is very little doubt about that; some days enough has been taken out to pay for all the laborers we had on the job.

By the CHAIRMAN:

Q. You cannot sell the top layer?—A. No, sir; not the first ten or eleven feet.

By Mr. TWICHELL:

Q. Does anybody receive a commission for anything that is being done there for the government?—A. Not that I know.

Q. They are at work for their actual pay?—A. Yes, sir.

Q. You are paid by the day?—A. Yes, sir; I get eight dollars per day.

Q. How many men have you at five dollars?—A. I cannot tell you now. There are some getting six dollars a day—the foremen. There are two at six dollars a day, and I think there are two at seven. These last are two men who came from Washington and who are very valuable men.

Q. How many get five dollars a day?—A. They are the stonecutters; I think there are three or four of them.

Q. How many at two dollars and twenty-five cents?—A. Something like fifteen or sixteen.

Q. How many at two dollars?—A. I think there are fifteen.

Q. That constitutes your force?—A. Yes, except the clerks in the office.

Q. What do they get?—A. We have one—the chief clerk—who gets six dollars a day. The next clerk gets, I think, five dollars a day.

Q. The stone is contracted for?—A. It is contracted for by the cubic foot, delivered on the ground. It is just brought in and laid on the ground and we take and set it.

Q. Does the material come here fast enough?—A. There have been times when we have had to wait, but for the last few weeks it has been delivered in good time.

Q. Do the men get pay for the time that they are kept waiting?—A. No, sir; it is lost time to them.

Q. So that the government is getting its work done at actual cost, and nobody is receiving any commission?—A. Nobody.

Q. And you are exercising your best judgment in employing your best men and making them work from seven in the morning till dark?—A. Yes, sir. There never has been any question about eight hours' work. Most of the hands are old hands of mine who have been working for me steadily along. When I came there I did not let them know but that I had a contract. In fact, I gave them to understand that I had, in order to have them work the same as outside.

Q. You do not recognize the eight-hour arrangement here?—A. No, sir; nobody in New York would try that on. If they did, we would simply pay them by the hour, and they would have to work ten hours anyway. We could not afford to lose two hours every day.

Q. If you have anything to say about the advantages or disadvantages of the present plan you may just as well say it now.—A. I think, from what I have heard here to-day, that there is a mistake as to the place where the mails are to be received and delivered. They are to be received and delivered in a covered drive-way from twenty-two to twenty-five feet wide, which will be wide enough to allow teams to be turned. It is a mistake to suppose that the mails are to be received and delivered outside. There are to be five doors for the incoming mails and five for the outgoing mails.

Q. Do you know who owns Dix's Island?—A. Dix's Island is owned by the heirs of Beale, and by Mr. Dixon, who has the contract. I am not familiar with the terms of the contract.

By Mr. FITCH:

Q. Do you know anything about the renting of the fence around this building?—A. Yes, sir.

Q. State how it was rented and by whom.—A. It was advertised, and it was rented at nine thousand dollars a year, I think; at any rate, I get a check for seven hundred and fifty dollars a month for it.

Q. Was that the highest bid?—A. Yes, I heard so. Mr. Hulburd and Mr. Mullett rented it. Mr. Hulburd signed the contract.

Q. You do not know whether the contract was given to the highest bidder?—A. No, sir. I know that the contract for the thirty-two iron columns was given to the lowest bidder. The bids ran all the way from three thousand two hundred dollars to twelve thousand dollars. I do not know anything about the granite contract. The contract for cement was very cheap; we get it delivered for one dollar and ninety-seven cents, which is very reasonable.

Q. Who delivers the granite here?—A. Mr. Dixon, the contractor. He hauls it directly from the vessel to the site.

(Witness having made some measurements, as directed by the committee, subsequently appeared before the committee, and his examination was continued, as follows:)

Q. State how wide the space is between the north line of the purchase and the building as it is now being erected?—A. Thirty-three feet seven and a half inches.

Q. State whether that is the uniform width.—A. It is not. In the center the space is twenty-five feet; that is the narrowest point. In the recess it is twenty-eight feet. The next widest part is thirty-three feet seven and a half inches; that is where the cove or recess occurs. The length in the narrowest part is fifty-five feet and six inches; the length of the part twenty-eight feet wide is eighty-two feet; the length in the widest part is one hundred and eight feet—fifty-nine feet at each end. I would like to call the attention of your committee to a little matter which I have thought of this morning. You will notice that for post office facilities Mr. Mullett's plan has more room than this other plan, (witness indicates on the drawing the difference between the two plans,) so that really, on the inside of the building, there is less room by this plan of the New York architects than by Mr. Mullett's plan. I have measured, and I find that there are one hundred and three thousand superficial feet more for postal purposes by Mr. Mullett's plan than the whole space now in the old building. The total space by Mr. Mullett's plan is one hundred and thirty thousand superficial feet, and there is only twenty-seven thousand feet in the old building. The piers of the building on the architects' plan are larger than they are on Mr. Mullett's plan. This pier (indicating it on the plan of the New York architects) is eight feet square, or rather, it is eight feet by eight feet six inches. They said yesterday that there was double the material in the piers now building than there should be. I thought that was rather an extravagant assertion and so I measured them. Those other piers (indicating them on the drawing) by Mr. Mullett's plan are five feet by three feet six inches; on their plan, five feet by three feet eight inches. So there is really very little difference between the two plans as regards the size of the piers; not worth mentioning. There are piers in the Park Bank larger than any of these.

By Mr. FERRY:

Q. You were speaking of the difference in area between this building and the present post office building; can you state to us the difference in area between Mr. Mullett's plan and the plan of the New York architects?—A. I will make the measurement and inform the committee.

(Witness subsequently returned and answered the preceding question; said he had made the calculations, and found the difference in area to be in favor of Mr. Mullett's plan over that of the New York architects by sixteen hundred and seventy-five superficial feet; that is, on the first floor, where the post office is to be.)

By the CHAIRMAN:

Q. Did you take into consideration the platforms, or allow any space on Mr. Mullett's plan inside the building for receiving the mails?—A. No, sir.

Q. And you do not exclude from the calculation the platform laid down on the plans of the New York architects for receiving the mails?—A. No, sir.

Q. How wide is that platform?—A. It measures ten by one hundred and thirty-two feet; that is, one thousand three hundred and twenty feet, still leaving a difference of three hundred and fifty-five in favor of Mr. Mullett's plan.

NEW YORK, December 30, 1869.

CALVIN T. HULBURD sworn and examined.

By the CHAIRMAN:

Question. State your present occupation.—Answer. I am superintendent of the construction of the post office building in this city. I was appointed in July last, a short time before the commencement of the work, by Secretary Boutwell.

Q. Have you had charge of the contracts that have been made, the advertising and opening of the contracts?—A. Some of them I have; not of all. Some of them were made at Washington, and were opened there. One or two have been made at Washington since my appointment, including the one for the granite. Proposals for the contracts were prepared at Washington, and were advertised for here.

Q. Were the contracts all advertised for before being made?—A. They were, to my knowledge; that is, the contracts for the granite, cement, rubble, concrete, and some of the iron work.

Q. With reference to the excavation, did you find that you could do it more cheaply in the manner in which it is being done than you could by contract?—A. We tried it by contract, and after making the effort for some time, we resorted to the provision of the contract in regard to putting on additional force. We found that the mixture would not work well; and we found, moreover, that the probabilities were the contractor was not going to be able to finish the work in this year, nor the next. I also found a disinclination in the men engaged in the work to work under him, regarding him as not, perhaps, perfectly responsible; and finally the contract was canceled, and we took hold of the work ourselves; but not until we had put in teams with his, and found that the plan would not work well.

Q. How do the two methods compare, in point of cost?—A. The work costs rather more as we are doing it now than it did by contract, as we originally undertook to do it. But the contractor did not go down to any considerable depth, except in a very small section; and there was a question of construction, whether, under his contract, he could not come in and claim extra compensation, whenever he reached the sand, for benching. The contractor took the contract for eighty-seven cents per yard, which was afterwards increased to one dollar per yard, for night work. But the excavation under him, except a very small portion, did not go down over ten or twelve feet; whereas we have had to extend it down to a depth of from twenty-nine to thirty-seven feet.

By Mr. FERRY:

Q. Was not the depth stated in advertising for bids, so that the contractor knew it when he put in his bid?—A. The word "earth" is used in the contract. That is the common form used in the Treasury Department. The word "earth" was used in the advertisement for proposals, and the proposals conformed to the advertisement. I meant to say that there was doubt whether, by the wording of the contract, the contractor could be required to excavate the sand below the "earth," except at an increased compensation.

By the CHAIRMAN:

Q. Then you did not advertise for bids for excavating to any particular depth?—A. I cannot say with definiteness at this moment, but my recollection is that the depth was subject to the direction of the superintendent.

Q. If the depth was specified, I suppose it would make no difference whether the excavations were through earth or through sand?—A. No, sir; I think not.

Q. Who was the lowest bidder for the excavation?—A. James E. Everhard; and to him the contract was given.

Q. How much did he excavate under his contract?—A. 28,727 cubic yards.

Q. To what depth did he go?—A. In a very small section, not more than ten feet square, he went down twenty-nine feet; elsewhere the depth varied from seven to nine or ten feet. Except in this small section, he could back his carts right down and shovel in the sand. This small section I speak of, not to exceed ten feet square, was benching; otherwise, so far as he went, it was surface excavation, comparatively.

Q. In relation to the contract for the granite, was the present contract made in pursuance of advertisement?—A. I understand that it was, but allow me to say that that contract was made by the Secretary himself. My name is not attached to it, as representing the government.

Q. You know nothing, then, of the bids?—A. The bids have been all before me. I did not open them; they were opened at Washington.

Q. Do you know the reason why the bid of the lowest bidder was not accepted?—A. I supposed that it was, sir, except in the case of a Mr. Williams.

Q. His bid was 62½ cents per foot for granite?—A. Yes, sir; it was a little lower than Mr. Dixon's; his was 65 cents. The matter was talked over in the office, in the presence of Mr. Williams, by Mr. Mullett. The point of the objection that was made was, that the quarry from which Mr. Williams proposed to furnish the granite had never been tried for building edifices, but simply for posts and monuments, and things of that kind. Mr. Mullett made the objection that until it had been tested, he did not think the government would be willing to make a contract for stone from an untried quarry. Mr. Mullett suggested to Mr. Williams that if he would bring a portion of his granite to be used in the building, if it was found adapted to the purposes required by the government, he would gladly make use of a portion of it. But this Mr. Williams was unwilling to do.

Q. Where is the quarry?—A. In one of the river counties of this State.

Q. Does Mr. Williams reside in this city?—A. I do not know; I have not seen him for two months.

Q. Is Mr. Dixon the owner of the quarry at Dick's Island?—A. I have understood there were three owners; Mr. Dixon is one of the partners, and treasurer of the association.

Q. Have you ever seen any of the granite which Mr. Williams proposed to furnish; did he present specimens of it with his bid?—A. I think he did.

Q. How was it proposed to test this granite—by bringing it here and putting it in the wall, to see whether it was good or not?—A. I received no directions on that subject.

Q. What did you understand about it?—A. I suppose the question in Mr. Mullett's mind was whether the granite was solid, or laminated, or stratified, &c.

Q. Not what you would call sound, compact granite?—A. I suppose that was it; I don't know. There is quite a difference in granite, in another respect, I understand; some kinds are much more easily worked than others. Some is very hard, and some is very crumbly in its nature—does not cohere compactly; I think the specimen that Mr. Williams showed was not larger than the square of a sheet of note paper. We urged him very hard to send down some of it.

Q. Does not your contract provide that the granite shall be good?—A. Yes; it not only provides that it shall be good, but there is a general formal clause that it shall be to the satisfaction of the superintendent; and the superintendent of course must rely upon those experts who understand the material with which they are dealing.

Q. Such a contract could have been made as well with Mr. Williams as with Mr. Dixon?—
 A. I do not know about that; if Mr. Williams had furnished a good article, and had furnished it promptly, I do not know but it might; but if he had attempted it, and the article was not good, this is not one of those transactions that can be so easily changed, as you can change a transaction for rubble stone, if you do not like it. Granite needs some time to prepare it. Mr. Williams was distinctly offered the opportunity of bringing a portion of his granite here, and having it put into the basement, even at the advanced price of Mr. Dixon's bid, for the purpose of inducing him to open his quarry to test it; and if on trial of his granite the government wanted to avail itself of his bid, it could do so. But that Mr. Williams would not do, unless the Secretary would give him the direct contract. He would not even furnish one pier, as I asked him to do, unless he could have the whole contract. Of course we offered to pay him for the stone, as we would pay anybody else, for the purpose of having the quarry opened.

Q. Had this quarry at Dick's Island then been opened?—A. Yes, sir.

Q. What buildings have been erected of it?—A. I believe the Treasury extension at Washington is of that description of granite.

Q. From the same quarry?—A. Yes, sir; but the material we are using upon the basement comes not from Dick's Island, but from Fox Island and Spruce Head. It is from the same contractor, but not from the same quarry. It is not of the same importance in regard to the basement as it was to the superstructure, above the surface of the ground, to have the material of a uniform color and quality. The granite for the latter is expected to all come from Dick's Island.

By Mr. TWICHELL:

Q. Does the government, by its arrangement, have any control of the quarry?—A. The government can take possession of it at any time it pleases, and work it.

By the CHAIRMAN:

Q. In addition to the 65 cents per cubic foot for the stone, the government also pays 25 cents a ton?—A. Yes, sir, as a sort of royalty.

Q. And then you pay one cent additional per cubic foot for all stones measuring above twenty cubic feet?—A. Yes, sir.

By Mr. TWICHELL:

Q. How is that computed? Is it one cent additional on the excess over twenty feet, or is it on the whole measurement of the stone?—A. It is one cent on the excess over twenty feet; (after reading the clause in the contract,) at least I should think that might be the construction of it.

By Mr. FERRY:

Q. What security have you for the fulfillment of this granite contract?—A. We have bonds.

Q. Would you not have had the same security in the case of Mr. Williams?—A. I think likely we would have had security in some shape.

Q. You would not have let the contract unless you had?—A. No, sir; we would not.

Q. The granite at Dick's Island had been already tested in the Treasury building at Washington?—A. Yes, sir.

Q. So that you did not require the same proof as to its quality?—A. No, sir; you are, of course, aware that it would be certainly an experiment, if not a hazardous one, to have depended for a supply of granite upon a new and entirely untested quarry. And here was a quarry, with only two or three cents difference in the price per foot, the standing of which was perfectly well known, and which had been already used by the government with satisfactory results.

Q. The hesitancy, then, was as to the quality of the stone, not as to its delivery?—A. It arose from the fact that the quarry was entirely untried, and that there was no knowing how it might turn out when it came to be worked. I asked Mr. Williams to give me an opportunity of testing the stone right there in the basement; but he would not do it, unless he was given the contract beforehand.

Q. What is the object of the clause in regard to the lease?—A. I understand it to be that in case, from any reason, the present proprietors should neglect to comply with the contract, or be unable to complete it, the government could step in and take possession of the quarry, and work it itself, accounting for a royalty of so much to the proprietors. That clause is for additional security that the government shall not be delayed in procuring the material needed. The only other protection against delay is simply a penalty of one hundred dollars a day. We had a little experience in the cost of delay by a failure in the receipt of granite at the time it should have arrived, on account of head winds, so that we were without stone for several days. A hundred dollars a day would not pay the expense. If such delays were to become frequent, or if we had reason to believe that the contractors were not using all diligence to furnish stone, we have the right, under the lease provision, to go and take immediate possession of the quarry and work it ourselves. I want it understood, however, that this contract for the granite was made at Washington, and sent to me executed, I believe.

Q. Then, so far as you understand it, the lease is intended more to insure diligence than to make good to the government any loss that may be occasioned by delay?—A. I understand that it is double security; there is the bail, and there is the agreement to hand over the quarry to the government, when the latter finds that it is not served so promptly as it needs.

Q. Does the contract give you the right to take possession at your option?—A. I think it does.

By the CHAIRMAN:

Q. Do you have two separate instruments—the one a lease and the other a contract?—A. No, sir; it is all one paper. There is a provisional lease incorporated in the contract.

Q. By Mr. Williams's proposal, was he to furnish the granite at 62½ cents per foot, saying nothing about the lease?—A. He proposed to deliver it here for that price, nothing being said about any lease.

Q. Was there anything said about a lease in the advertisement?—A. I do not think there was; but for greater security, I suppose, when the contract came to be drawn up, this additional provision was inserted.

Q. And for that the government pays twenty-five cents a ton?—A. Yes, sir; was to pay it.

By Mr. FERRY:

Q. What does that amount to per cubic foot?—A. My impression is that I have been told that that granite weighs about one hundred and sixty-two pounds per cubic foot; but granite varies in that respect. Taking that, however, as the average weight of the granite we are using from that quarry, there would be about 2½ cents per cubic foot additional if the lease were resorted to.

By the CHAIRMAN:

Q. Was any test examination made of Mr. Williams's granite?—A. No, sir; none that I know of.

Q. Are you sufficiently acquainted with the subject of granite to state to the committee whether a test of the quality of granite can be made with a small piece as well as with a large one?—A. I am not; but I should answer, as probably any other person would, that I do not think a proper test can be made with a small piece. We had a little experience of that kind in the matter of rubble-stone. A small piece was brought, which, on inspection, was perfectly satisfactory. The contractor claims that he delivered to us from that identical quarry, and yet the stone delivered was utterly unsatisfactory—laminated, sandy, and unsound; entirely different from the specimen he showed us. We canceled the contract, refusing to receive the stone. I do not myself believe that a granite quarry can be properly tested until it is very considerably worked; it may be very different below the surface from what it is near the surface. A very considerable piece may be brought up from near the surface and be satisfactory; but as you go down into the quarry the stone may be of a very different quality as to solidity, and fineness, and weight, and soundness.

Q. Do I understand you to say that for the building above the basement the granite is to come from Dick's Island?—A. Yes, sir.

Q. Does the contract so specify?—A. The contract specifies, unless I am much mistaken, that all the granite for the building shall come from Dick's Island; but in order to facilitate matters, and believing that the stone is just as good for that place and purpose, permission has been given that the stone for the basement and sub-basement may be supplied from Spruce Head and Fox Island.

Q. How much money has been expended in this building now?—It is impossible for me to answer without referring to the books.

Q. Who disburses the money?—A. I certify to the accounts, and General Jones, the postmaster, pays the checks. He has a clerk, General O'Beirne, who comes to the premises for our convenience, and pays the men there. It would cause a good deal of delay and loss to the government to send them to the post office for payment.

Q. General O'Beirne is appointed for that purpose, is he not?—A. The Secretary of the Treasury designates the disbursing agent.

Q. Have you changed the contract for the rubble-stone?—A. Yes, sir.

Q. Who is the present contractor?—A. We are through with that contract now.

Q. Who was the first contractor?—A. Mr. O'Neill, at \$5 72. After allowing him to deliver for some length of time, and after a failure of all his assurances that the stone would get better, I notified him that we could not receive any more, on account of its poor quality. Then we went into market and bought from two different parties at \$5, delivered, and of better quality—we thought it a good deal better quality.

Q. Was O'Neill the lowest bidder at the advertising?—A. Yes, sir.

Q. Who was your contractor for cement?—A. Baxter & Delafield.

Q. At how much?—A. At \$1 97 per barrel of three hundred pounds; that was the lowest bid.

Q. Were there not bids for \$1 70, \$1 85, and \$1 95?—A. I do not know how that could be, unless they were informal, for some reason.

Q. F. O. Norton's bid was \$2. There was a bid for 5,000 barrels at \$1 70; another for 5,000 at \$1 95; another from the Potomac Mills Mining and Manufacturing Company

West Virginia, at \$2 05 ; and Delafield & Baxter, at \$1 95.—A. I do not think I can otherwise explain that without reference to the papers.

Q. Were these lower bids rejected on account of any inferiority?—A. Some of them were rejected because there was no tender of any security or reference whatever. My recollection and belief is that Baxter & Delafield's was the lowest bid that complied with the terms of the proposal. I cannot tell what the informality in the lower bids consisted in, without reference to the papers.

Q. What is stone for concrete?—A. It is stone broken up. Concrete stone is that which is broken up for the purpose by grinding. Rubble-stone is built into the retaining walls—that is, rough outside walls, not hammered or cut stone.

Q. Who had the contract for this concrete stone?—A. Charles B. Huff.

Q. At \$3 37½ per cubic foot?—A. I do not recollect the exact price.

Q. You have one assistant superintendent?—A. Yes, sir; and a master-mason, a master-blacksmith, a master-mechanic, &c.

By Mr. TWICHELL:

Q. I would be glad to have you explain to the committee the construction of the building, and the point at which the mails are to be received and delivered.—A. I suppose that that more properly belongs to the architect; I know only what he has talked over with me.

Q. You know where it is understood between yourselves that the mails are to be received and delivered?—A. Yes, sir; I understand that the mails are to be received and delivered on the north side of the building, fronting the City Hall; it has been always so talked with me. I never heard anything whatever to the contrary until this morning, when a member of the committee told me he understood Mr. Mullett to state that the mails were to be received at the lower or south end of the building.

Q. Have you not some plans upon which you can point out exactly where you understand the mails are to be received and delivered.—A. I do not think that it is marked upon the plans.

Q. You understand that the mails are to be received and delivered on the City Hall side?—A. I have been always so told.

Q. Are the mails to be received and delivered under cover?—A. They are.

By the CHAIRMAN:

Q. What cover is to be made?—A. This drive-way I understand is to be covered, perhaps, by a French roof, or a French style of roof—probably it will be the last.

Q. Is the cover of this twenty-four-foot passage all the way through?—A. Yes, sir. I do not know that I have heard Mr. Mullett say specifically so, but that is my impression.

Q. Is there anything in the plans of Mr. Mullett, or in any of the contracts, to indicate that any sort of a wall is to be built on the north side of the government purchase, outside of the main wall of the building?—A. I answer literally, as you put the question, no, not to my knowledge; but I know that the intention is to excavate up to the city line; and that a retaining or rear wall of rubble-stone shall be built upon that line. But, there being no haste for that excavation, I was directed to stop when I came pretty near that line in the excavation.

Q. It is proposed, you think, to excavate clear up to the north line of the lot belonging to the government?—A. Yes, sir; I know it is.

Q. To the same depth as the other excavation?—A. I suppose so.

Q. And there is a wall to be erected upon that line?—A. Yes, sir.

Q. For what purpose?—A. There must be a wall of some kind there to keep the sand from crushing right in upon us.

Q. Is it proposed to make any use of the lot underneath the drive-way?—A. I can only say that I have not received directions to excavate it, but that I am expecting to do so.

Q. Is there anything upon the plan to indicate what sort of a road is to be made above that excavation?—A. I do not think that there is.

Q. Have you heard what sort of a road and pavement are to be made above that excavation?—A. No, sir. The last time I conversed with the architect he had not determined in his own mind, or he said he had not, what sort of a road-way he would put around the exterior; whether it should be of granite or of corrugated iron.

Q. How are the mails to be received and delivered—through the doors on that first floor or into the basement?—A. I cannot tell you.

Q. Is there anything upon any of the plans thus far which shows that the mails are to be delivered on the north side of the building?—A. I do not know that there is.

Q. Is there anything to indicate that there is to be a platform upon which mails are to be received?—A. I do not know that there is.

Q. Or that there is to be any cellar-way or gangway through which the mails are to be put in the basement?—A. I do not know that there is, and I do not think that there is upon any of the original plans as to the retaining wall.

By Mr. TWICHELL:

Q. Has there been any conversation between yourself and the architect, Mr. Mullett, and the postmaster, or the government officers interested particularly in carrying out this arrange-

ment, with regard to having a car to come into the cellar and take the mails directly in and out from the post office. Are you not laying the work out so that that can be done?—A. There is such a proposition, but the details of it have not been studied out.

Q. But in your arrangement you leave it so that it can be fixed that the mails shall be loaded and unloaded into and from cars at that point?—A. Yes, sir.

Q. And upon that area of twenty-four feet?—A. Yes; and I was instructed not to carry these walls beyond a certain point until the details of that were studied elaborately.

Q. So that your retaining wall outside would retain the roof which would cover this space where the mails are to be received and delivered?—A. Yes, sir. I do not know that a glass roof is settled upon, but I know that that is an idea which Mr. Mullett dropped once in regard to it.

By Mr. FERRY:

Q. Speaking of that glass roof, did not that indicate to you that that was to cover the drive-way for the ingress and egress of mails?—A. I suppose it did.

Q. Then, did you suppose that twenty feet would be wide enough for that purpose?—A. I suppose so.

By the CHAIRMAN:

Q. Are there not to be piers between those doors?—A. I cannot tell exactly, but think there are.

Mr. SMITH remarked that there were to be.

The CHAIRMAN, to witness:

Q. You propose, as I understand you, to erect your retaining walls in such a manner that a roadway may be made through this space on the north side?—A. Yes, sir; so as to approach this end under ground, and meanwhile to erect the upper part of it so that it can be approached by mail wagons, &c., and at any time afterwards it can be arranged so that it can be approached under ground.

Q. That is a plan of your own. There is nothing of that sort upon the plan?—A. It is not there.

Q. Do you not regard it as very important that there should be a covered way for receiving the mails?—A. I regard it as very important that there should be a shelter of some kind.

Q. Not only a shelter over head, but a place protected by walls where the mails can be safe from depredation, and where they can be delivered as safely as they are carried. A mail-bag is not so likely to be stolen when the driver is upon the wagon as it is when the driver is engaged in taking the bags off?—A. I think that they would be more likely to be stolen in the street than there. If I wanted to steal a mail-bag, I should take it in the street rather than in the building where there would be a dozen eyes to watch me.

By Mr. FERRY:

Q. Upon the supposition of the building being carried out to the north line of the property owned by the government, would not the object of a basement entrance for cars be as well carried out as if there were a space of twenty-five feet between the building and the north line of the property?—A. I do not know that it would. I do not myself see any architectural objection to the building being extended to the north line, but I know nothing of the motives which induced the architect to decide upon this plan, except the natural one of approaching so near another's property. I do not see any architectural difficulties or obstructions in the way. I am not aware that the idea of this archway originated with Mr. Mullett. I went to Washington and said to him he must decide the question whether to extend that wall or have an archway.

Q. So that really the archway was not in the original plan, but was acceded to informally through your suggestions?—A. I think he did accede to it. I do not know how he had originally viewed it.

Q. My impression was that the mails were to be delivered at the south side, and I think that your suggestion has taken the place of the other plan?—A. It does not seem to me possible that Mr. Mullett ever contemplated the mails being delivered and received at the south side. He never for a moment talked with me of delivering or receiving the mails there, and I did not suppose that he entertained that thought. We all concurred that we ought to build it with regard to an approach under ground, and meanwhile to use it for the same purpose for an approach over ground.

By Mr. TWICHELL:

Q. If you should build it to the extent of the government line on the north side, would it not be necessary, as a prudent measure on the part of the government, to make some provision that the space to the north of it should be always kept open, so that the building should have light?—A. We had heard that it was in contemplation by the threatened erection of a building there, or by some other means, to force the government to pay a round price for the privilege of light. We believed this might be, although we could not prove it by legal

evidence. But if evidence is that which works conviction in the mind, then we had evidence of it.

Q. Do you have to pay the city of New York anything for the privilege of excavating under the sidewalk?—A. We paid some \$8,000 for that privilege.

By Mr. FERRY:

Q. Is that special or is it customary?—A. It is customary in this city. The first move we had to draw a check for the amount.

Q. Although the city got the same surface use from it as if there were no excavation at all?—A. Exactly.

Q. But you have no reason to believe that if the building were constructed up to the boundary line on the north side the government would some time have to pay for light upon that side?—A. Yes, sir; we did have reason to believe so. The rumor even went so far as to name some of the figures that we should have to come to or be annoyed; but of all this, of course, I have no personal knowledge.

By the CHAIRMAN:

Q. State whether you advised the making of the granite contract at New York?—A. I did not. I had no knowledge of it until it was done.

Q. Was the cutting of the granite advertised for? I mean of the dimension stone.—A. I should say there were no specifications; the term used in the advertisement was, "dimension stone."

Q. Were there any proposals for cutting the stone?—A. Not to my knowledge.

Q. Did you ever visit Mr. Williams's quarry?—A. Never.

Q. You never saw it?—A. No, sir.

Q. Do you know if Mr. Mullett has ever seen this quarry?—A. I have no reason to believe that he ever did; or that he could have visited it without my knowledge.

Q. Who is this Mr. O'Beirne, who is employed as disbursing clerk?—A. I never saw him until he reported at my office as the representative of General Jones, the postmaster, to pay the men in the employ of the government.

Q. Do you know anything of him?—A. No, only as deputy marshal of the district during or after the war.

Q. Have you any knowledge of the cost of cutting the granite for the building?—A. I have not any knowledge; I have an opinion. I once asked the contractor what the amount of the granite contract would be if fulfilled, and he answered, from a million and a quarter to a million and a half of dollars.

NEW YORK, December 29, 1869.

JAMES KELLY sworn and examined:

Question. State your residence and occupation?—Answer. I reside in the city of New York; I was postmaster in New York from 1864 until 1869.

Q. Were you one of the commissioners appointed in pursuance of an act of Congress to procure a site for a new post office in New York City, and to get plans and specifications for the building?—A. Yes, sir.

Q. Who were your associates on that commission?—A. Messrs. Jackson S. Shulze, Charles H. Russell, William E. Dodge, Moses Taylor, Charles H. Rogers, Mayor Hoffman, and United States District Attorney Courtney.

Q. Those commissioners procured the site?—A. Yes, sir.

Q. At what price?—A. Five hundred thousand dollars.

Q. How long have you resided in New York City?—A. All my life time—fifty-seven years.

Q. State whether, in preparing the plans and specifications for the building, the commissioners directed the architects to avail themselves of all the area owned by the government.—A. Yes, sir; we were very rigid about that. The architects at first objected, as they wanted to make a building of pretty lines; but I showed them that we could not afford to lose any space; so they abandoned the idea, and agreed to take in all the land they possibly could. A good many plans were thrown out in consequence of their not occupying all the space.

Q. State whether, in your opinion, there is any more room there than the government requires?—A. I do not think there is. I always questioned whether there would be room enough; but we thought it would answer for thirty or forty years, and that we would let posterity take care of itself.

Q. You had no idea that you had any too much room?—A. No, sir; not a bit.

Q. Reference has been made to the drive-way, and the objection has been raised that if the building were set back to the north line of the plat owned by the government, there would be a liability of the light being obstructed by the city putting up another building abutting against it. What do you think upon that subject?—A. It is a very far-fetched idea. I do not suppose that the city of New York is ever going to spoil a building for which it sold the government the site. The legislature, in granting permission to have the site conveyed to the government, gave every facility that it possibly could. The legislature was familiar with the fact that the government was going to get that site.

Q. Do you think there is the slightest probability that the city of New York would ever put up a building on that line, abutting against the post office?—A. I do not think it would do any such bad act as that, even if it had the power.

Q. Would the city be likely to sell any portion of the park for private purposes?—A. I do not think it possible. Our common council has done a good many wrong things, and it has also done a good many good things; it did a good thing when it gave the government that property for five hundred thousand dollars, when it was worth five million dollars. Most of the members of the council were political opponents of mine; but they acted very honorably in this matter. At one time, out of the seventeen votes in favor of making the sale, thirteen were democrats. It was the same with the commissioners of the sinking fund, every one of whom were democrats, without whose consent we could not have had the site. They looked upon the thing as a matter of pride to New York; and they wanted a building there such as New York would be proud of.

Q. The plans submitted by you commissioners to the architects employed by you in the city of New York provided for inclosing all the ground, and for making a drive-way on the north side of the building; why was that?—A. There is valuable material in the mails, and the mails are often damaged by rain; we have seen this frequently in the present post office, where we often take in from thirty to forty tons of mail matter per day. By the arrangement of the first plan—having a drive-way—the mails will be kept dry, besides being perfectly secure. Every day over two hundred wagons come to the post office loaded with mail matter, and as many more leave the post office carrying away mail matter.

Q. You regard it, then, as a matter of very great importance that there should be a covered and protected way for loading and unloading the mail matter?—A. Yes, sir; I do think it very essential indeed.

Q. What do you think of the propriety of receiving and delivering the mail matter at the point of Park Row and Broadway?—A. I think that would be a very absurd idea. I think that if that should be done, any grand jury ought to indict it as a nuisance. The post office would have no right to encumber and blockade the streets of the city in any such way. I never met a more intelligent set of men than the architects who drew up this plan; and they all agreed that it was necessary to have a long drive-way, covered and inclosed.

Q. Have you ever been consulted in reference to the new plan of this building, upon which it is to be constructed?—A. No, sir; I would very willingly have given my time and experience to the subject, if I had been asked. The commissioners, who were two or three years meditating and consulting on the subject, were men of large experience; I have myself built some twelve or thirteen buildings, and have conversed much with masons and mechanics; Mr. Taylor was altering a building in Wall street at the time. Mr. Dodge is putting up a very large building on the site of the old Dutch church. The rest of the commissioners were also well acquainted with building matters. I should have supposed that Mr. Mullett would have conferred with these men: but he did not.

Q. Your associate commissioners were men of large acquaintance and experience in the city of New York?—A. Yes, sir, and men of wealth; and also of undoubted integrity. I shall ever feel proud that I have been associated with such men.

Q. Do you know whether any of them, or any of the judges of New York, have been consulted with reference to the new plans for the building?—A. I do not know that they have.

Q. What is the value of a strip of land 25 by 320 feet, extending from Broadway to Park Row, on the north side of this purchase?—A. Anywhere on Broadway, between here and Union square, a lot 25 by 100 feet would be worth one hundred thousand dollars. Any man will tell you that a lot on Fifth avenue, up to the park, is worth fifty thousand dollars.

Q. What would be the value on Park Row?—A. I do not know exactly; I have a vacant lot fronting on it twenty-five by one hundred feet, that is worth not less than one hundred thousand dollars.

Q. State whether the business of the post office in the city of New York is increasing rapidly from year to year?—A. It is increasing every day; it has doubled within the past five years, and will doubtless double again within the next five or ten years, at least.

Q. You would regard it then as very bad policy to throw away, or not to utilize, any portion of this land?—A. I would; I think that if it was a matter of necessity that the building should be set back from the line owned by the government, it would be better for the government to buy thirty feet more land.

Q. Do you think this is a proper place for a post office building?—A. I do.

Q. You think the location a good one?—A. Yes, sir.

By Mr. TWICHELL:

Q. Have you examined the plan that has been adopted, and on which the building is now being constructed?—A. No, sir; I have never seen it.

Q. Therefore you are not able to make any comparison between it and the plan submitted by the commissioners?—A. No, sir; I would have gone to Washington to see it, if I had been asked.

Q. You say that the post office business is increasing rapidly; what effect does the

arrangement of postal cars have upon that business ; does it not lessen it very much ?—A. Not to any great extent.

Q. Are not the mails coming from the south, and that are intended for New England, carried directly to the New Haven railroad depot, instead of going to the post office to be assorted, and *vice versa* ?—A. Yes ; but that is a mere bagatelle.

Q. The general supposition is that that system lessens the labor in the distributing post offices very much.—A. Of course, it must lessen it some ; I believe that the only real benefit of the postal car system has been to accelerate the mails ; the persons to whom letters are directed, receive them sooner than they could when the mails were sent through distributing offices ; the postal car arrangement facilitates business to that extent.

By Mr. FERRY :

Q. Do you consider it hazardous to the interests of the Post Office Department to receive and deliver mails outside of the building, as would be the case if the present plan were carried out ?—A. I do so consider it ; the mails would be exposed to bad weather and to theft.

Q. Is it better to have the mail matter received and delivered under cover ?—A. I think so ; for then, when the mail wagon drives in, the gates can be closed and nobody allowed in but the sworn officers of the department ; I never regarded it as proper to have the building constructed without a covered way for the mail wagons.

Q. Do you think it would be inconvenient and impracticable to receive and deliver the mails out of doors at the convergence of the two streets ?—A. I do ; I think it would be very unwise ; I never heard anybody suggest it ; that part of the city is a vast thoroughfare, crowded with city cars, omnibuses, wagons, and people ; I never saw Broadway anything else but crowded.

NEW YORK, December 30, 1869.

Hon. ALEXANDER H. RANDALL came before the committee.

By the CHAIRMAN :

Question. Mr. Randall, as you happen to be in New York, I would like to take a statement from you with reference to your connection with the building being erected for a post office in this city. I wish you would give the committee a compact statement of its history.—Answer. The necessity of a new post office building in this city was known to everybody, owing to the immense amount of business done in the New York post office, and New York being in many respects unlike the great cities of the Old World. Here you have the commercial and the moneyed centers at the same point. In France and England the commercial and the moneyed centers are at different points ; the moneyed center of England is at London ; the commercial center at . . . In France the moneyed center is at Paris ; but her commercial center is her sea-ports. But here we have the great commercial and the great moneyed center at the same place ; everything tends to New York. And furthermore, in the construction of our public buildings we must provide conveniences, not for ten or twenty years, but for a hundred years. The present post office building is a wretched old thing ; and the public and the Post Office Department have long seen the necessity for a new one, and Congress was urged to pass a law providing for its erection. While I was Postmaster General such an act was passed, requiring the Postmaster General, on consultation with the Secretary of the Treasury, to advertise for plans ; this we did ; a great many plans were submitted ; I think fifty-two in all ; some of these were not considered at all ; a great many of them were like the first efforts of school-girls at painting and drawing ; but there were between thirty and forty that we deemed worthy of consideration, and examined. Out of these the commissioners who were appointed selected five as containing each of them ideas worthy of being incorporated into the new building, yet each having some defect ; so the commissioners called together the five architects who had drawn these plans, and said to them : “ Here are certain defects in each of these plans ; we want you to get together and remedy the defects, and with your combined skill make the best plan you can.” These men were recommended to the Secretary of the Treasury, the commissioners, and myself, as being among the best architects in the country. They went on and prepared a plan, which was adopted by the Secretary of the Treasury and myself. That is a short but correct statement of the matter, so far as I am concerned. We, the Secretary of the Treasury and myself, supposed we had a good plan ; Mr. Mullett told me afterwards that he thought it defective, and that he should recommend a different plan ; I understand that he did so, and that the Postmaster General adopted it. Beyond what I have mentioned, I paid no attention to the matter.

Q. With reference to the business of the New York post office, state whether it is constantly increasing.—A. Yes, sir ; it is increasing wonderfully ; you can get a better idea of the increase of business in that post office than anybody can state it to you, by examining the reports of the department, which give the statistical tables of the business ; and the business must continue to increase ; if New York grows as the country grows, the business of the office must increase enormously. New York is going to be the great point of shipping for the country, unless Norfolk happens to beat it some time.

Q. Are you acquainted with the site selected for the building, with its shape and size?—
A. Yes, sir.

Q. By the plan proposed by the New York architects it was proposed to cover the entire area?—A. Within a few feet, I believe.

Q. By the plan of Mr. Mullett a strip some twenty-four or twenty-five feet wide across the north side of the plat is left out of the building; will you give the committee your idea as to the propriety of embracing the entire plat within the building, or leaving out that strip as proposed?—A. My idea was, and has been all through the consultations on the subject, that it was best to cover as much ground as Congress would appropriate money to cover. I had an idea that it would be practicable in some way to send the mails in cars from the post office building to the various railroad depots, and to receive the mails from the railroad depots in cars that could be run right into the post office building. Something of that sort has got to be done in order to keep pace with the wants and necessities of a great city such as this is to be, perhaps the greatest in the world. If the population of this country increases as it has done, this city is going to have a population of three or four millions within thirty or forty years, and the United States will contain from eighty to one hundred millions; the mind can hardly conceive of the wealth and prosperity which this country is to enjoy, and of the immense business which is to center in this city. In an enterprise of this kind you have to lay out your work, not for ten years or twenty, but for a hundred years. We have made a post office of what is left of that old church and graveyard down there so long that half the people connected with the concern are sick the most of the time; I have no skill as an architect and am not competent to say but that this last plan is better for the purpose of a post office than the other.

Q. You think it would be wise to have the building so constructed that the mail cars could run into it?—A. Yes, sir; so that you can run a train of cars right in—into the cellar, or some other part of the building. This city is going to be undermined with railroads yet; and a post office sufficient for the needs of the city will require a great deal more room than can be obtained in any building now standing, unless it may be A. T. Stewart's new store up town. There is no other building that I know of that is fit for a post office in this city; and something should be done pretty soon. Probably ten million dollars' worth of property passes through this post office every day—drafts, bonds, securities, money, &c. I have no doubt whatever that if a fire had broken out in the post office at any time within the last two years, it would have burned up ten millions' worth of property in the mails. My views in regard to the cost of such a building as is here needed may differ from the views of others; but to my mind it makes no difference what would be the cost, provided the money is not squandered; provided you get the worth of your money, and get what the country requires. A great many little things that occurred to me when the matter was under consideration, as to the practicability of this or that plan, have now passed out of my mind.

By Mr. FERRY:

Q. I wish you would state your views in reference to the diversion of mail matter by the postal car system; whether or not the operation of that system would prevent the increase of business at this office at the same ratio as heretofore?—A. No; the increase will not be so rapid, although there will not be any falling off. The business of the country centers here. All the foreign mails pass through this office; and I am satisfied that the postal car system will never afford any greater relief to this post office than it now does.

Q. You think that not only all this ground should be covered by the post office, but that the wants of the city demand even more space?—A. You want a good deal of room for a post office for a city of three or four millions of people. For every additional man you employ, clerks, carriers, &c., you must have additional room. All the business has to be done under one supervision; you cannot have half a dozen main post offices. The mails are going to increase with the increase in population of the city and country. The business is certainly never going to diminish.

Q. Your judgment, then, would be, taking all things into consideration, that we ought to enlarge rather than curtail the size of the building?—A. I don't know but a skillful architect may make a small building so convenient that more business may be done in it than in a larger one less conveniently arranged. But other things being equal, of course the more room you have the more facilities you can make for the transaction of business. Mr. Stewart could not do fifteen millions of dollars' worth of business annually in the Astor House; he must have a large store in order to do a large business. The government has got to build according to the business it has to do. In twenty-five years from now the business of the New York post office will be equal to all the business of the Treasury of the United States in Mr. Adams' time.

By the CHAIRMAN:

Q. Do you consider it important that there should be a covered and protected way for the wagons in delivering and receiving mails at the new post office?—A. I do.

Q. Do you think it would be as well as to have them received and delivered from the street?—A. You could not have them received and delivered from the street without a liability to constant loss. In the first place, the mails would be exposed to rain and snow;

and the men who handle the mails would be similarly exposed. Besides that, half the loss of mails in this city has occurred from bags being stolen from the wagons as they backed up against the back side of the old post office. As one man is passing in a bag of mail another man is passing out a bag of mail the other way. Unless you build a covered way you will have to set guards over the mail, as they do in England. In fact, in England they have mail-guards on railroads, armed with muskets, just as they used to do when the mail was carried on the old stage coaches. In Washington the mails are now loaded and unloaded inside of the building, or at least in an area where nobody but officers of the department has any business to be. My idea was that if the post office building was put up on this corner, and in the way I have described, you could start the mail cars from here to Boston and other points, loading right from the post office. As business increases you have got to increase your facilities for transacting business; if it costs you a million of dollars extra at the start to do it, it is better and even cheaper for the government in the end. But if you should erect this building as they say they are erecting the City Hall over here, I think it would be better for the jobbers than for the government. That building was to cost eight hundred thousand dollars; but it has cost between six and seven millions of dollars.

By Mr. TWICHELL:

Q. You are not able to make any comparison between the two plans—the plan designed by the New York architects and the one they are working under now?—A. No, sir; Mr. Mullett's plan has been adopted, and may be as good a one as the other for aught I know; I have no skill in such matters; only I think that a large building for such a purpose is better than a small one. I have never seen Mr. Mullett's plan.

Q. This postal car arrangement relieves the post office of just the amount of business done by it?—A. Yes; it relieves it very much; but the office already has all the relief it ever will have from that source.

Q. Do you regard that postal car system as of great advantage to the public?—A. Yes, sir; I think it would be a great misfortune to break up that system. I think that between fifteen or even ten years ago and now that arrangement made a difference of twenty-four hours between Washington and St. Louis, between Washington and Chicago, and between Washington and Portland. It costs something to be sure; but until you have this country filled up with people you cannot make the post office pay its own expenses. And there is no more reason that it should than that the War Department, or the Navy Department should pay expenses. If you appropriate for the Post Office Department half what you appropriate for the War Department or the Navy Department all the papers and letters of the country could be carried free. The Post Office Department is the only department which pays anything back.

By Mr. TWICHELL:

Q. Except the Patent Office.—A. Yes; but that is not a department. The Post Office Department is the only one that serves the people and produces a revenue toward paying its own expenses. After all it does not make much difference whether the people pay the expense in one way or the other—whether by three cents postage on their letters, or by taxes equivalent. If it had not been for the public debt, I should, in my last report, have recommended the carrying of all letters free, making a charge upon newspapers and book packages.

NEW YORK, December 30, 1869.

PATRICK H. JONES sworn and examined.

By the CHAIRMAN:

Question. State your official position.—Answer. I am postmaster in the city of New York, and am also disbursing agent of the treasury.

Q. State to the committee whether there is an absolute necessity for better accommodations for the post office in this city than you now have?—A. There is a very great necessity.

Q. State whether the present post office building is adequate to the wants of the government.—A. No, sir; it is not at all adequate to the needs of the public. We can do our business there, because we have no better conveniences; but it is a mere make-shift.

Q. State whether the business of the post office in this city is or is not increasing.—A. It is increasing constantly, and very rapidly. I think it increases, perhaps, at the rate of one-tenth every year.

Q. In the erection of a new post office in this city, state whether, in your opinion as postmaster, it is or is not wise to put up a building as large as the circumstances will admit.—A. Yes, sir; there should be a large building for that purpose.

Q. Is there or not more danger of the building being circumscribed in size?—A. I think it very desirable that it should be made with a view of supplying more than the present wants of the city. The danger is rather of its being too small than too large.

Q. What is your opinion in regard to the place for receiving and delivering mails—whether it should or should not be a covered and protected way?—A. Yes, sir; it should be covered and protected. The mails, when they come to us, are under cover; they are

brought in canvas-covered wagons, as a general thing.. They should be protected from becoming wet while being transferred from those wagons to the post office, and *vice versa*.

Q. In delivering them, at the wagons in the street, would they not be liable to depredations if not protected?—A. Certainly; there are always large crowds about the post office, and we cannot always tell who is and who is not an employé, properly authorized to touch the mails. Of course, if they were left there, because we have no place which we can call our own, and from which we cannot exclude everybody not connected with the office, it would be very dangerous. Experience shows, however, that whenever the mails are extracted, they are taken out of the wagons; I do not think that, since I have been postmaster, any mails have been lost out of the post office itself.

By Mr. FERRY:

Q. What do you think about the plan for the new post office here—whether it covers sufficient room, prospectively, for post office purposes?—A. It is more than sufficient for our present wants; and, provided the postal requirements should not be greatly increased for the next five or ten years, I think it would be sufficient for them.

Q. Looking forward fifty years, with an increase of one-eighth annually, would you think that this building now going up would be sufficient for the purpose? In other words, if you had an opportunity of increasing the building by twenty-five feet in width, would you prefer to do so, in anticipation of the future wants of the post office?—A. Of course, I should like to have the building twenty-five feet wider, but I should want to know where we are going to have a walk outside of the building to get into it. If we had twenty-five feet more of ground belonging to the United States, I suppose it would be better to have the building larger.

Q. In other words, you would like to have as much room as possible.—A. Yes, sir. There are two floors which we work on; this first floor is not the only portion used for a post office; we are to have just the same space below as we have here. In talking the matter over informally with Mr. Mullett, we concluded that the heavier portion of our business would be on the floor below; that is, the newspaper business. The letters take up, comparatively, a small space. The newspaper mails all have to be made up on the floor below, and taken up through elevators, and placed in the wagons. The present post office would be large enough for the business, if it were not for the newspapers.

By the CHAIRMAN:

Q. Have you ever seen the plans made by the New York architects?—A. No, sir; I never saw anything, except a photograph of the elevation.

Q. By those plans, they propose to use the entire ground, and build the outside wall on the north side of the government purchase, leaving a space of some forty feet on the ground floor for a drive-way, for wagons to come in, and receive and deliver the mails, thus giving the government the benefit of all the space between the court-room and the basement below. By Mr. Mullett's plan, this space of some twenty-six feet wide is left out of the building. In view of the future wants of the Post Office Department, and of the courts in this city, and in view of the propriety of having a covered way and protected place for the mails, do you think it wise or not to occupy all the space, or to leave this part of the space unoccupied?—A. Certainly; if there was no danger of the light being obstructed, it would be advisable to have this space built upon; in other words, to use all the ground we have.

NEW YORK, December 30, 1869.

ALEXANDER T. STEWART examined.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside at No. 355 Fifth avenue, New York; I am a merchant.

Q. Were you consulted by the Post Office Department with reference to the location for a building for a post office and court-house in this city?—A. I was only consulted in reference to a change of the site.

Q. State what action you had in the matter, and the conclusion you came to.—A. The Secretary of the Treasury requested me to act for the department in having the post office changed from the present site to a site further up in the park. Mr. Orton and Mr. Greeley were appointed commissioners with me. We got an act passed by the legislature to enable the common council to make the change. After that was done, the mayor was consulted, and was requested to lay all the evidence before the common council, to accomplish that purpose. The mayor met with the commissioners at my office, and I discovered immediately that he was not in favor of the change. After delaying some time for his action, and that of the council, I wrote to the Secretary of the Treasury, requesting to be relieved from the committee, as I was satisfied that no change could be made, and I advised to proceed with the work on the ground that had already been purchased and provided for.

Q. Do you think the locality selected is a good one for the building?—A. The very best you could have in the city of New York, at the present time; decidedly so. There was one place which the original commissioners might have secured—I mean the hospital grounds;

that is the place where the post office really ought to have been. The locality is bounded by Broadway, Duane, Church, and Worth streets.

Q. Have you any suggestions to make relative to the building—as to locality, size, construction, &c.?—A. Mr. Mullett has shown me the elevation of the building which he intends to erect. I urged him not to adopt the elevation which had been accepted previously, but to make one which would be creditable to the city, and be much less expensive than this one, having much less ornamentation. I advised him to have the proportions, rather than the ornamentations, be the beauty of the building. He agreed with me in the matter, and consented to do as I suggested, and not long ago, within six weeks, I think, he submitted to me a design which he had made. I was much pleased with the draught which I saw; I think it is greatly preferable to the other one, because it has not that ornamentation which, in a great place like this, would soon become black and dirty, and very disagreeable to the observer. I really thought that the design shown me by Mr. Mullett was very creditable to him; I examined the elevation with some care, and must confess that I approved of it. I have had considerable experience in building matters.

Q. The general plan of the outside, as designed by Mr. Mullett, and as designed by the New York architects, was very similar?—A. I understand that there was a difference. By the original plans of the architects it was proposed to occupy all the ground that had been purchased by the government up to the north line; by Mr. Mullett's plan it is proposed to leave a space unoccupied by the building on the north side, as also a point on the south side. I do not know what his purpose was in this, but I should suppose the building ought to be at a little distance from the sidewalk for the convenience of persons coming to the post-office. I think I suggested that to Mr. Mullett. I also urged him to go just as deep into the earth as he could go, so that when the underground railway is finished, as I hope it will be, cars can be run into the building. Besides, it is not safe to build clear up to the line, for there is not a foot of space here that will not be used some time or other. When I first spoke to him about it, Mr. Mullett did not intend to go down lower than twelve or fifteen feet, but I urged him to go down thirty feet, and I understand that he is doing so.

Q. On the north side of the building is a space unoccupied of some thirty feet, on an average; what do you think of the policy of leaving this space unoccupied?—A. I should think there ought to be a space there belonging to the government. I told Mr. Mullett, if it were possible, to have a space for wagons to drive in, and to do all the business inside.

Q. I understand you to say in general terms, that all the space that can with propriety be occupied should be occupied by the government for the building?—A. Yes—taking into account at the same time the convenience of the public, and the business that is to be performed in the building.

Q. And you think that considering the future growth of the city, no space should be wasted?—A. No space should be wasted unnecessarily; but I wish you to understand that I think it would be a great mistake to bring the building right up to the sidewalk; I think there ought to be a space belonging to the government around the building. I think that if I owned this lot myself, I should want a space at both ends of it which I could control and shut up. By the original plans of the New York architects, the building occupied the whole grounds belonging to the government, clear to the north line; but there was an archway at each end of the north line for wagons to drive in and deliver and receive the mails, and turn around again and drive out. This space was forty feet wide, but it was all inside of the building. In addition to that, the basement under it was used, and above it were court-rooms, &c. In this way all the ground was utilized. By the plan of Mr. Mullett, it seems the building is not to extend to the north line, but a space twenty-five or six feet wide is left out of the building, with the intention of allowing wagons to be driven in there. I think I should prefer to have it as it is, according to Mr. Mullett's plan, than to have that space included in the building.

By Mr. FERRY:

Q. Was it not in contemplation to raise a wall one story high and to cover it with a glass roof?—A. I see no objection to that.

Q. Which do you regard as preferable, that plan, or the plan of having a wall run up the whole extent of the building, thus utilizing all the space?—A. I do not think I should inclose this drive-way in the building; I would prefer it as it is.

By the CHAIRMAN:

Q. You would prefer not to have the drive-way in the building?—A. I should.

Q. Even though there were plenty of room at the disposal of the government?—A. I should still prefer it as it is. The building will cost money enough anyway.

Q. Would you think it best that the drive-way should not be inclosed and covered?—A. That would be a mere matter of taste. I suppose that in bad weather it would be better to have it covered in.

By Mr. FERRY:

Q. Do you think there is any reasonable ground for the suspicion that the city government, knowing the plans of the United States government, would either itself put up, or allow to be put up, a building abutting on the post-office building, so as to cut off the

light?—A. I cannot answer as to what the city might do. I should not as an individual, if I were putting up a great building like this, be disposed to place myself in a position where I could be deprived of light.

By Mr. BOYD:

Q. Would you construct such a building as this of marble or of granite?—A. I am in favor of marble myself. It should be either marble or granite—not of this yellow stone or brown stone.

Q. Which is the more expensive material, marble or granite?—A. I am not prepared to say; but my impression is that granite is the more expensive. You can get marble within the vicinity of this city; the best of marble for building purposes comes from within fourteen miles of the city. Granite you have to bring from a greater distance.

Q. What does marble cost delivered here?—A. I am not prepared to say.

By Mr. TWICHELL:

Q. I understand you to say that you have seen the plans made by Mr. Mullett?—A. I said I saw the elevation, and was pleased with that. I suggested some little changes, but I was rather pleased with it. You must have a little style about a public building like this.

By Mr. BOYD.

Q. Would it be wise or unwise for Congress to know approximately what the building is to cost?—A. You cannot do it.

Q. Mr. Mullett tells us that he cannot tell within five hundred thousand dollars of what the building will cost.—A. I think it would be very difficult for you to ascertain the cost; for so long as the basis of value is paper money, you cannot tell from one week to another what the cost of anything will be. Bring things to a specie basis, and you can tell the cost of such a building within ten per cent. If any man should estimate upon that building to-day, as to what would be a fair price for the material and labor to be expended upon it, and were to make a contract on that estimate, he would run a great risk of losing all he was worth, unless he were a very rich man.

Q. So you think it is just as well for the government to go on building, no matter whether the cost will be four million or ten million dollars?—A. We must of course get honest men to take care of the work. The way I do is, to buy my own material, and then employ the best mason I can get to do the mason-work, at so much, and the best carpenter to do the carpenter work, and the best mechanics of all kinds to do the work in their respective branches; then I pay the bills. There is no contract as to what the total cost of the work will be. I have a sort of a contract, of course, as to the wages to be paid. In this way you get work well done, and if you have a man upon whose honesty you can rely, as I believe the government has in this case, the work is done more cheaply in this way than in any other, and, besides, is done better.

By the CHAIRMAN:

Q. But in the case of your buildings, you know what is going on, and oversee the whole thing yourself?—A. That is true; still, I rely very much on my architect.

Q. But when the United States government erects a building, it has to rely on its agents.—A. So have I, to a great extent.

By Mr. FERRY:

Q. What commission do you usually pay your contractors for working?—A. I will tell you what my architect charges; he charges three per cent. on the whole building; I do not pay him quite as much as that, because I build a great deal.

Q. I understand you to say that if we were on a gold basis, so that it were practicable, it would be desirable to have an estimate made of the cost of such buildings?—A. Then you could have an approximate estimate.

Q. Do you deem it advisable that the government should know approximately what the cost of such buildings would be?—A. I suppose it would be desirable; but I do not know how you could approach very near the cost, for the reasons I have already given you. On a gold basis, you could come very near it. I think it would be well for the government to have an understanding as to what the probable cost would be; but I contend that any man who had a contract on this building to-day would run great risk of losing all he was worth, unless he had a very large fortune.

Q. If the contractor should give security with sufficient bonds, that would not be your lookout?—A. I never allow a contractor for me, who acts honestly, to lose money by me. When I know that a man has taken a contract too low, and he performs his work well, I will see to it that he suffers no loss.

By the CHAIRMAN:

Q. Look at these plans of the New York architects, and see whether you do not think it advisable to take in the whole ground?—A. The only objection I have to occupying the whole space with the building is, that some day or other the building might be shut out from light on the north; and I think that in the case of a large public building like this, the government should look out for itself, and protect its own interests.

Q. Could there not be an ordinance passed by the council to provide against this space being ever built upon?—A. A council cannot pass any ordinance which can bind the next or any following council. Only the legislature of the State could make such a bargain with the United States.

Q. Could the council put up a building upon this park without the consent of the legislature?—A. I think not.

Q. Then do you think the legislature of the State of New York would give anybody permission to put up a building against this post office?—A. No, I do not think it at all probable; but still the government ought to take care of itself in that matter.

By Mr. FERRY :

Q. Then, if you were putting up such a large building, you would guard against such a possibility, and leave that space open?—A. I think I would.

Q. It is said to be worth three or four hundred thousand dollars.—A. I should not be willing to pay that much for it. The only objection to extending the building to the line is the possible obstruction of the light by the city putting up, or allowing some one else to put up, another building abutting against it. It is not at all probable that the city would do anything of that kind.

BOSTON, *January 3, 1870.*

GRIDLEY J. F. BRYANT sworn and examined.

By the CHAIRMAN :

Question. State your residence and occupation.—A. I reside in Boston; my occupation is that of an architect; I have been in the active practice of my profession here for twenty-eight years; I am now in charge of the construction of the post office and sub-treasury in Boston, as superintendent of construction; my appointment came from Mr. Boutwell; my salary is eight dollars a day; I am allowed an assistant superintendent, who also serves as master-mason, at a compensation of seven dollars a day; his name is John W. Leighton.

Q. Have you anything to do with any of the contracts for that building?—A. Neither directly nor indirectly, to the extent of one cent.

Q. Are you the custodian of the contracts?—A. I have one copy. By a rule of the department there are three copies executed. One of them is given to the contractor, one remains at the department, and one I have.

Q. Who drew the original plans of this building?—A. A set of drawings were made in the year 1868, for gentlemen in Boston. The gentleman in charge of the matter was Mr. Barrett, who is since dead. He waited upon me, and asked me if I would prepare, for the merchants of Boston, a set of drawings for a post office—not the working plans, but an idea of the building. I took hold and did it. I was not employed by the government then, nor was I paid by the government.

Q. Have you been consulted by Mr. Burt, the postmaster of Boston, with reference to the plans for the post office building?—A. Yes; during all times since it has been commenced.

Q. State to the committee whether your plans are being followed generally, and in the main.—A. Not in the exterior of the building, but in the interior. In the plans which I drew originally for the merchants of Boston, represented by Mr. Barrett, the interior was mainly arranged, I think, by General Burt. He had as much to say respecting the interior as I had. The exterior he left to myself and partner, Mr. Rogers. This was long before I received any appointment from the government.

Q. You say that the exterior plans are changed?—A. Yes, sir; Mr. Mullett's plans, when they came here, were considerably changed from mine. Those drawings of mine were brought to the notice of the department, and that is all I ever heard of them. I made them and forwarded them, but the exterior was completely changed. That change was made at Washington.

Q. Does that change make the building more or less expensive?—A. My exterior would have cost more money. Mr. Mullett complained of its being highly ornate.

Q. As designed by yourself, did the plans contemplate a marble or a granite building?—A. There was no consultation had regarding the material. They were designs, and not working plans or specifications. I believe that there was a description accompanying them, addressed to those who employed me.

Q. The building you are engaged on is intended to be granite?—A. Yes, sir; that has been the decision.

Q. Does that accord with your recommendation and that of General Burt?—A. Yes, sir; my belief is that General Burt preferred a marble building above, perhaps, the basement story.

Q. What would be the difference in the cost between a marble and a granite building?—A. The marble people of late, I think, have managed to bring their bids to a cost corresponding with granite. When the Boston City Hall was built, the cost for marble was forty per cent. higher than for granite; but now I have no question that, if you were to ask for marble bids, they would be as low as for granite; I do not think they would be any lower.

Q. Does the building which is being erected here cover all the ground purchased by the government?—A. It does, except the drive-way. Mr. Mullett has hoped to be permitted by the Merchants' Express Company, owning the next estate, to excavate under the drive-way.

Q. State what the cost of that site to the government was.—A. About fifteen dollars a foot. Since then, forty dollars a foot has been offered for the old Stafford estate, on the opposite side of the street, which was sold for seven dollars and a half a foot three years ago.

Q. The selection of that site for the post office and treasury of course enhances the value of the property about it?—A. Certainly; I believe upon the subject of the site, there has been no discussion; I think the site is a good one. In fact we never hear here, through the newspapers or otherwise, any complaint that the site is injudicious. The city has invested half a million of dollars in widening the street in front of it. The proportion of that half million of dollars, for which the government would be liable, would be about fifty thousand dollars, but it has been remitted to the United States.

Q. How much work has been done on this building?—A. We have the excavation completed, and the retaining or area walls on the three streets are all built. The whole of the foundation is laid under the basement floor for the exterior and interior walls. I think that the work done approximates one-third of the hammered show piers of the exterior walls. That work is going on from day to day rapidly. I consider that one-third of them are in their places, and I have the hope and expectation that, if the winter remains fairly an open winter, we shall complete all the granite work of the basement story before the first of March next. All the interior and exterior iron columns for the basement story have been received, either at the site or on the wharf at Charlestown, a large share of them being on the spot, ready for setting. These iron columns will be set from time to time, between now and the first of March next, as the granite work progresses. The whole of the iron beams for the first, or street story, have been ordered, and I think have been all delivered, either on the site or on our wharf at Charlestown, and we hope to get them all in place, upon a fair average of an open winter, in half the month of March. That would complete all the masonry and all the iron work, and everything pertaining to the skeleton of the building as high as the first floor—that is, the ground floor.

By Mr. TWICHELL:

Q. Where does the granite come from?—A. The whole of the granite comes from Cape Ann, or Sandy Bay, as it is called.

Q. Is it of good quality?—A. Yes.

Q. Does it come to you regularly, so as not to delay the work?—A. Under all circumstances we have had fair delivery. I do not mean to say that we have not been delayed somewhat for want of granite—some days. The exact amount of time that we were delayed I cannot say. I do not mean to say that the construction of the building has been largely delayed for want of granite, but it has been somewhat. The reason assigned for the delay was, that commencing work upon so large a scale new sheds were required, and new shops; and, perhaps, in that view of the case, they have done as well as they could.

By the CHAIRMAN:

Q. You said that you had the copies of the contracts?—A. Yes, sir; here are two contracts for granite—one for the foundation, or basement story, and the other for the superstructure.

Q. Do you know anything about the advertising for those contracts?—A. Yes.

Q. Were they all advertised for?—A. No, sir.

Q. Which one was not advertised for?—A. The recent contract for the granite for the superstructure was not advertised for.

Q. With whom was the contract made—who was the negotiating party?—A. Jonas H. French is the only person whom I saw in the matter.

Q. He contracts as president of the Cape Ann Granite Company?—A. That is the way he signs.

Q. Do you know anything of that company—as to who compose it?—A. I do not.

Q. Do you know whether there is such a company organized or not?—A. I do not.

Q. Do you know any of the officers of the company, except French?—A. Not a single one.

Q. He was the person who made the contract?—A. Yes, and the only person.

Q. You do not know who is the secretary or treasurer, or who are the stockholders or directors?—A. No, sir. He came and represented himself as president.

Q. What has been heretofore the business and occupation of Jonas H. French?—A. When we found him he was running a quarry at Cape Ann, and going down from day to day.

Q. Had he men at work there?—A. Yes, sir.

Q. For what work was he furnishing granite when you first found him?—A. There was stone being hammered there; also, a large quantity of paving stone.

Q. How long had that particular quarry been opened?—A. A good many years; but how long he had owned it I do not know.

Q. What had been the occupation of Mr. French before you knew him in the granite business?—A. I never knew Colonel French before, except by name. I knew that he was in New Orleans with General Butler, and I knew that it was said he was a distiller.

Q. Recently?—A. Yes; before he presented himself to me.

Q. What rates are specified in the contract for the basement floor?—A. Thirty-nine and three-quarters cents per cubic foot for the stock, and twenty-five cents per ton for the bankage and wharfage. We lease the quarry, paying therefor bankage and wharfage, and agree

ing to take out 15,000 tons of stone—the lease to be renewed for five years, or one, at the option of the government. The government has the right to use the stone for any other building in the United States in charge of the Treasury Department.

Q. Is that thirty-nine and three-quarters cents to be paid for all the stone that you take out?—A. That is the rate for all stones up to twenty cubic feet, and for all the stones in the area or retaining walls, however large he may choose to send them. The thirty-nine and three-quarters cents per cubic foot does not pay for any dressing.

Q. After you get up above the first story do you pay the same prices?—A. No, sir; the contract for that granite is a conditional contract.

Q. And the contract you have been just speaking of is for the basement story?—A. Yes, sir.

Q. Is the 15,000 tons intended for the basement?—A. I cannot say. The contract was drawn in Washington and forwarded to me. It reads, thirty-nine and three-quarters cents for every cubic foot of stone when the dimensions do not exceed twenty cubic feet in each stone, with one cent additional for every cubic foot in any single stone beyond such twenty cubic feet.

Q. What do you understand to be the construction of that contract—how have you understood it up to this time?—A. I have had no discussion of it. The government has always told me that I was not to construe contracts, but that the department must construe them.

Q. I would like to know your understanding of it.—A. My father was a granite man, and that rule emanated from a committee of granite people about thirty years ago, of which my father was chairman. The construction that has been always put upon it is, that if a stone has twenty-one cubic feet in it, the one cent additional is to be charged upon the whole stone.

Q. I understand you that that is a contract for the stone for the basement floor?—A. Yes, sir.

Q. How about the stone above the basement floor?—A. The contract came to me from the department with instructions to execute it. We are to pay by it, from time to time, as ordered, contingent upon appropriations, fifty-five cents per cubic foot, and we are to pay one cent a foot upon all stones over twenty cubic feet. Then the contract stipulates that they are to hammer the stone from time to time, as directed. The substance of it is that the account for the cost of this hammering is to be kept by government officers, delegated by the Treasury Department, and that once a month the contractors shall receive payment therefor, with fifteen per cent. added as profit.

Q. Is that contract made with the same party?—A. It is made with the same party. Jonas H. French signs it as president of the Cape Ann Granite Company.

Q. What proportion of the stone will probably measure less than twenty feet?—A. I cannot answer that question.

Q. Will it be a small or a large proportion?—A. The working plans for the basement have only come to us, and Mr. Mullett's instructions from the beginning have been to keep the stone down to the smallest possible dimensions.

Q. Is it customary in large buildings to put in small stone above the basement floor?—A. It is proper for me to say that there will be a great many stones exceeding twenty cubic feet.

Q. What are stones of the same size worth for the building above the basement more than for the building below the basement?—A. It is expected that for the floors above the basement we will have better stock.

Q. From the same quarry?—A. From the same quarry, undoubtedly; but we should expect a better quality of stock.

Q. You dress a portion of the stone that is used in the basement?—A. Yes, sir; the stone in the show piers is dressed.

Q. Do you not require just as good stone for them as you do for the floors above?—A. No, sir; I do not think we exact as good stone.

Q. Do not the contracts in both cases specify as good stone?—A. I do not know that I can construe the wording. It would not be usual or proper to pay money for so costly a stone in the basement.

Q. Can you give the committee an estimate of the number of tons of granite that will be used in that entire building?—A. I can approximate it by making a calculation.

Q. What does the cutting of granite ordinarily cost; such cutting and handling as is given to that stone?—A. I think there were two proposals for something like three dollars a square foot for cutting.

Q. Was the cutting advertised for?—A. No, sir.

Q. What do you pay generally for cutting granite for such walls?—A. For the basement piers, as the stone is being hammered, I would say that it might cost us seventy cents per foot for the hammering; I mean the show piers on the basement story. That is for the hammering exclusive of the stock. Most of the stones have but two faces to be hammered, and many of them only one face. It would amount to about \$1 60 per cubic foot; that includes the 39½ cents to be paid for the stock.

Q. Do you include the twenty-five cents for bankage and wharfage?—A. No, sir; I do not include that. I should rather take a pier and compute it for you.

The CHAIRMAN. You may do that, and make the other computation also of the approximate cost of the cutting of the stones above the basement floor.

WITNESS. My instructions came in the form of a sample of cutting, instructing me to have the stone for the basement piers cut in accordance with that sample, and defining exactly the quality of the hammering.

Q. How often do you communicate with the Treasury Department as the work progresses and how do you communicate, so as to show how the work is being done?—A. I am required to make minute reports every month; so far even as to tell what has become of every bucket that has been charged for; how many were on hand on the first day of the month; how many are left; how much stone was received; how many bricks were laid; how the excavation has gone on, &c. In addition to that, I am required to make quarterly returns, for which forms come to us from the department.

Q. Are you required to send photographs of the work as it progresses?—A. Yes, sir; quarterly photographs. We have been in the habit of having three copies—one for Washington, one for my office, and one for General Burt, the postmaster.

Q. By the contract made with Mr. French, how is the work to be done—by the day, or in such manner as he shall desire?—A. By the day. He has the men subject to an officer designated by the department; that officer at present consists of my clerk and the assistant superintendent.

Q. Your clerk and the assistant superintendent take the time of the stonecutters?—A. Yes; one of them stays there at a time; they alternate.

Q. Are they doing that work now, or has any one else been substituted in their place?—A. I understand that a person has received the appointment recently. His name is Hale. He is a stranger to me.

Q. He was not recommended by you?—A. No; he was not recommended by me.

Q. Was he recommended by Mr. Burt, that you know of?—A. No, sir. When I say he was not recommended by me, I mean to say that the matter was in consultation; and I said that, if he was a proper person, I would recommend him. The department decided to substitute him for the others.

Q. Who consulted you about it; with whom were you in consultation?—A. I do not think any one but Mr. Mullett.

Q. Did Mr. Mullett ask you about him?—A. If he did anything, it was by letter.

Q. How long since?—A. I should think about two months. I will qualify my evidence, so far as to say that I did write a letter upon the subject. When positive orders came from Mr. Boutwell and Mr. Mullett, I delegated the assistant superintendent and the clerk to divide the duty between them, because Mr. Mullett said there would be no extra pay for it, except they might perhaps have their expenses paid. The duty was divided, and they have up to this time accomplished it.

Q. How much is the pay for the position?—A. Six dollars a day.

Q. Mr. Mullett wrote to you in regard to this Mr. Hale?—A. I will not swear to that, until I look over the papers and see.

Q. Do you know who recommended him to Mr. Mullett?—A. No, sir; I do not. Upon consultation I said, "Very well, I will recommend him, if the department think it best."

Q. But you do not recollect with whom you were in consultation?—A. No, sir; I will recollect and state it.

By Mr. TYNER:

Q. Who first suggested the appointment of a person to that position—Mr. Mullett or yourself?—A. Well, it was not myself.

Q. Was Mr. Hale known to Mr. Mullett until somebody mentioned him?—A. I will not say.

By Mr. FITCH:

Q. Who fixes the rate of wages for the men employed in the cutting?—A. I have the responsibility for that; but my instructions are specific, that if I go beyond the market rates I will not be allowed it.

By the CHAIRMAN:

Q. Who fixes the pay of yourself, of the assistant superintendent, and of the individual who keeps the time?—A. The Secretary of the Treasury fixed mine at eight dollars a day. If the department sends for me and authorizes me to travel I am allowed ten cents a mile, but no other pay, no board, and no per diem. It is made up in the form of a bill at the end of the month, and is put in.

By Mr. FITCH:

Q. Then it is not Mr. French who fixes the rate of wages for the government?—A. No, sir.

Q. He simply gets fifteen per cent. upon the amount that the men earn?—A. Yes.

By the CHAIRMAN:

Q. Do not some stonecutters upon fine work get more wages than others upon coarser work?—A. Yes, sir.

Q. Do your instructions from Washington specify what you shall pay for such work, and for such work, and for such work?—A. No, sir; I am responsible for the best exercise of my best judgment.

Q. After all, you have to depend upon the man who keeps the pay-roll at the quarry as to how many men work on fine work, and how many on coarse work?—A. Yes, sir; but I depend upon a man who I feel would not deceive me. My clerk was for a long while chief clerk in the sub-treasury, and is an active, competent man.

Q. He was recommended by General Burt, was he not, as a suitable man?—A. Yes, sir.

Q. And by yourself?—A. Yes; I gave him the appointment, subject to the approval of the Secretary of the Treasury.

Q. Did he decline acting, and is he superseded at his own request?—A. No, sir; I think not.

By Mr. BOYD:

Q. You say that you have been an architect for twenty-eight years; did you ever hear of Mr. French being a granite man, before this contract was made with him?—A. No, sir.

Q. Do you know what facilities Mr. French had for contracting for cutting stone more than any other man in the community?—A. No, sir. The theory of the department is that, if it were to attempt to get estimates upon a building of that kind, the stone interest would simply take the government into its hands and do as it pleased.

By the CHAIRMAN:

Q. The men are hired by French, and not by the government?—A. They are hired by French.

By Mr. FITCH:

Q. But the rates of wages are fixed by the government?—A. Yes, sir; and Mr. French must abide by them.

By the CHAIRMAN:

Q. The rates of wages are fixed by the market price?—A. Yes, sir; my written instructions say explicitly that only reasonable market price shall be allowed; and the accounting officer would throw out the account if any more was charged.

Q. Mr. Mullett has to depend upon you here in Boston to fix the wages of the men?—A. Yes; subject to his examination in Washington, where he has a great many experts.

By Mr. TWICHELL:

Q. Do you require the men to work any given number of hours per day?—A. Yes, sir. That was one of the points claimed by the department as an advantage in this arrangement, that the men would work ten hours a day; whereas, if the government hired them in its own name, they would only work eight hours.

By the CHAIRMAN:

Q. Do you mean to say that the government requires men to work there ten hours a day?—A. That is to say, that Mr. French requires it and exacts it.

Q. Could not the government let the contract to cut stone at so much per foot, or at so much per quantity, as individuals do?—A. Undoubtedly.

Q. Suppose the government contracted with John Jones for cutting stone at so much per foot, could he not hire his men to work as many hours as he pleased?—A. I do not know how far that could be carried out.

By Mr. FITCH:

Q. Are there overseers for these men?—A. Yes, sir; there is one foreman, and in addition to that overseer my clerk, Mr. Whittle, goes down four days in the week.

Q. Who employs that foreman?—A. The foreman is the man who lays the lines for the cutting of the stones. He is selected by Mr. French and is paid by the government. There is a head overseer, a thoroughly practical man, in charge of Colonel French's work. He receives no compensation from the government. He was positively refused pay by Mr. Mullett. I think his name is Runnels.

By the CHAIRMAN:

Q. He is the superintendent of the yard?—A. Yes, sir.

Q. But the man who lays out the work for the stonecutters, how is he paid?—A. The second foreman, I think, is paid six dollars a day. He is upon the rolls, and is paid by the government.

Q. And the man who keeps the time-table is paid by the government?—A. He is my clerk.

Q. Well, Mr. Hale is to be?—A. Yes.

By Mr. FITCH:

Q. How many men are employed by Mr. French who are not upon the government pay-roll?—A. I think but one; I think that all the others are upon the pay-roll.

Q. About how many laborers are employed at the works?—A. Our last tally was one hundred and two.

Q. What is the average rate of wages?—A. From four dollars a day down. There are two or three grades of prices.

By the CHAIRMAN:

Q. Were any changes made in the manner of building the foundation for the post office, at your suggestion, by which a saving to the government was effected?—A. Mr. Mullett wrote to me that I was to consider myself not only superintendent of construction, but an adviser, and asked me, with my knowledge of the soil in this city, and with my experience in the purchase of granite and other materials, to criticise his plans frankly; and I took the liberty (all of this is in writing) to propose the omission of the concrete under the area wall of the building. I did that upon my best judgment. I also took the liberty to propose a less number of courses in the foundation of the piers. I proposed to take off two courses, the soil being, in my best judgment, thorough, compact, and capable of resisting any weight.

Q. Did he acquiesce in your suggestions?—He did. He also confided to me the bonding. These suggestions were forwarded to Washington, and came back formally approved, with his thanks to me for attending to it.

Q. How much saving to the government was effected by these changes?—A. I should say, without figuring it up, that the omission of all that concrete must have effected a saving of from twelve to fifteen thousand dollars.

Q. He had proposed to spread the concrete over the entire surface?—A. Yes, sir.

Q. For what depth?—A. Two and a half feet.

Q. And you regarded that as entirely unnecessary. A. Yes; and I so stated officially.

Q. And it was omitted?—A. Yes.

By Mr. TWICHELL:

Q. That was owing to the peculiar foundation?—A. Yes, sir.

By the CHAIRMAN:

Q. It was owing to the fact that you knew what the foundation was?—A. I would not say that it was an error of judgment for a man to place concrete under a public building in nine soils out of ten. My assistant superintendent and myself brought the fact to his notice.

Q. In other words, you understood the soil and he did not?—A. At that time probably he understood it as well as any person.

Q. He had never seen it?—A. I cannot say that. He authorized me to bore, and I put the government to an expense of six or seven hundred dollars in boring before I would commit myself.

Q. If you wished to erect a building in the city of Chicago, would you think yourself, residing here in Boston, and never having seen the location, as well qualified to design its foundations and its structure as if you lived upon the ground? In other words, is not an architect upon the ground better than an architect living a thousand miles away?—A. That point was argued in selecting an architect for the position of superintendent instead of what is termed an out-door mechanic. It was argued that an architect was preferable to a master-mechanic. You must have a superintendent upon the ground. Local superintendents have always been appointed by the government; sometimes a mason and sometimes a carpenter.

Q. What would you think of the propriety of the government erecting a building to cost four millions of dollars, without having an architect upon the ground to superintend its construction?—A. I suppose that a thoroughly skilled master-mechanic, receiving fully detailed working plans from time to time, could erect the building properly; but most thoroughly skilled mechanics do combine a knowledge of architecture. If an architect is a practical man, (and I profess to be practical as well as theoretical,) I think it as well to select an architect for the local superintendent.

Q. You would say that there should be either an architect or a thoroughly skilled master-mechanic to superintend the erection of the building?—A. Certainly, sir. I should like to know that the architect was thoroughly skilled; and I should like to know that the master-mechanic was sometimes more than a mere piler-up of brick and mortar.

Q. Do you know the price of granite delivered in Boston?—A. Yes. We had evidence of it in the fact that they wanted sixty-five cents a cubic foot for granite, for which we pay only thirty-nine and three-fourth cents. The originals of the bids were all forwarded to the department.

Q. You mean by bids, proposals; there were no advertisements?—A. There were no advertisements.

Q. How many proposals were received?—A. For the foundations, there were four or five proposals, and for lease and contract four or five. When I say proposals, I mean that there were circular letters received. My instructions came from the department, that I was to invite the attention of gentlemen who had quarries which they were willing to lease, and I did not find a great many who were willing to lease their quarries.

Q. Did you find any with good granite who were willing to lease their quarries?—A. Not really in earnest. They all said, "why not let us get the stone without leasing the quarry?" I said that those were my instructions; and that I had reasons for believing that the government should hold possession of the quarries, and that I was not to discuss the point. I think that circulars went to the Rockport Granite Company, the Granite Railway Company, and Messrs. Clapp & Baldwin.

Q. When was the last contract made?—A. On the 26th of October, 1869. It came to me from the department, with a letter instructing me to execute it.

By Mr. TYNER :

Q. Who recommended the leasing of this quarry?—A. I cannot say.

Q. What personal inspection, if any, was made either by Mr. Mullett, or by the Secretary of the Treasury, of this quarry?—A. Mr. Mullett made one visit, I believe.

By the CHAIRMAN :

Q. Did you receive a proposal from Mr. French in reference to this quarry before you received instructions from Washington to bargain with him?—A. No, sir; I think I received proposals from no one.

Q. Proposals were received from several quarrymen; to whom did they make the proposals?—A. To me, as superintending agent.

Q. Did Mr. French make any proposals to you before you received instructions to make a bargain with him?—A. For the foundations he assuredly did. Proposals came to me and went to Washington; I pass upon nothing.

Q. Who first brought to your attention the subject of this quarry?—A. I think it is in the form of a letter from Mr. Mullett.

Q. Is that the first intelligence you had that Mr. French wanted to take a contract?—A. Yes, sir; I think so.

Q. Who first spoke to you or wrote to you about this quarry?—A. I think Mr. Mullett not only wrote but spoke.

Q. Before ever French spoke about it?—A. I do not think French spoke to me until I had some writing from the department.

Q. Did Mr. Mullett tell you who had recommended that quarry to him?—A. I do not think he did that particular quarry.

Q. Did he tell you who had recommended any quarry?—A. I think he spoke of having had consultations with different gentlemen upon the subject.

Q. State whom?—A. I think he named General Butler as one.

Q. Did he state that General Butler had recommended this quarry?—A. I do not think that that is upon record, or that it is proper for me to say that he did.

Q. Did General Butler speak to you about it before the contract was made?—A. Yes, sir; I have spoken with General Butler, and General Banks, and Mr. Hooper.

Q. Did General Butler recommend this quarry particularly to your attention?—A. No, sir; I do not think I should say that. Undoubtedly General Butler wanted the granite to come from Essex County; he represents that district; but I do not think I ought to say that he recommended that quarry.

Q. Did he speak to you many times upon the subject?—A. No, sir; I first met the general in the latter part of the summer. He has been pretty circumspect upon the subject.

Q. What did he say to you about it; did he request you to recommend the contract to that quarry?—A. No, sir; General Butler never said that much to me. Undoubtedly he was anxious that the so-called Cape Ann quarry should have the contract.

Q. Did he state whether he had any interest in the quarry?—A. If I understood his words he had no interest in it.

Q. Did he recommend Mr. French as a suitable man to contract with?—A. I do not think that to me he ever recommended Mr. French. What he has done with the department I do not know.

Q. But you do recollect that Mr. Mullett first called your attention by letter to that quarry?—A. He called my attention to the Cape Ann quarry by letter.

Q. Up to that time you had not inspected that quarry yourself?—A. No, sir.

By Mr. TWICHELL :

Q. Rockport is what you call Cape Ann?—A. It is the same kind of stone. It has this advantage, that you never find any iron in it.

By Mr. TYNER :

Q. Did you personally inspect this quarry before the contract was made?—A. Yes, sir.

Q. What recommendation did you make of it?—A. Mr. Boutwell required me to state whether it was a suitable stone for the building, and my answer was that it was a suitable material. There is a building standing quite close to the post office, constructed of the same stone.

By Mr. TWICHELL :

Q. You are familiar with it?—A. I have had very many years' experience of it.

By the CHAIRMAN :

Q. I understand you to say that your attention was first called to this quarry by a letter from Mr. Mullett, in which he stated that he had had a consultation with General Butler?—

A. And with other gentlemen.

Q. Did he mention the other gentlemen?—A. He did not.

Q. General Butler's name was the only name that was mentioned?—A. In the letter that was all.

Q. Is there any difference in the wording of the two contracts; the one for the basement stone, and the one for the superstructure stone, in reference to the quality of the stone?—A. The contract for the superstructure stone is specific as to the stone being free from rust, &c.; in the other contract I do not see any particular specification of that kind.

Q. Do you take stones that are not free from rust for the lower walls and the piers?—A. So far the work is called very fine work, and with a very nice quality of stock. How much better stock Mr. French proposes to give for the superstructure I cannot say.

Q. If he can afford to give you stone of that quality for the basement and piers, why should you pay him fifteen or sixteen cents more per foot for the superstructure?—A. I think that the evidence of experts would show you that stock proper for the superstructure would be worth that difference, if not more, compared with stock that would be proper for the basement piers, such as we now speak of.

Q. Can you state what granite of that quality ordinarily costs in Boston per cubic foot?—A. I think I have stated that it would range from 55 to 65 cents a foot, for the rough stock for the area walls.

Q. I am asking what you can buy it for for the lower piers?—A. When I began to canvass this subject, people in the street talked of 65 cents a cubic foot for the stone, and I think none of them spoke of less than 50 cents. I think the government has got a good bargain in getting the stone at 39½ cents.

Q. Provided the contract is faithfully carried out?—A. Yes, sir.

Q. Did the Secretary of the Treasury make any particular examination of the quarry?—

A. I do not know that he did, except that he may have gone there in his summer trip.

Q. Do any of your acquaintances live near there?—A. General Butler has got a nice stone house near it, within perhaps fifty rods of what you would call the quarry proper.

Q. Do you know how large an estate General Butler owns there?—A. He owns, as I have been told, looking down from the quarry to it, four or five acres. His property bounds right on the Atlantic Ocean. To the right of his estate come the wharves of this quarry.

Q. Abutting his estate?—A. I do not think he comes quite up to the wharves, but he may.

Q. Did the Secretary of the Treasury make any personal inquiry of you with reference to that quarry?—A. No, sir; I think I have not seen the Secretary since he signed my application for the appointment, which was before Mr. McCulloch went out.

Q. You think that you wrote a letter recommending Mr. Hale's appointment?—A. Yes, sir. It is proper for me to say that, when the theory of appointing Mr. Hale was started, I said, "Very well."

Q. Who started it?—A. Mr. Mullett brought it to my notice.

Q. Who had brought it to his notice?—A. I do not know.

Q. Did he speak to you about it, or write to you?—A. I do not think he wrote to me.

Q. Do you know who had recommended Mr. Hale to Mr. Mullett before Mr. Mullett spoke to you about it?—A. I do not think that I have the evidence for that in writing or in language, but I think it very likely that it may have been General Butler.

Q. That is the impression you have?—A. Yes, sir; it is proper to say that that is the impression.

Q. And thereupon Mr. Mullett asked you about him?—A. Yes; I have forgotten whether he wrote or not.

Q. Did Mr. Mullett request you to recommend Mr. Hale, in order to please General Butler?—A. No, sir; he did not put it in that light.

Q. In what light did he put it?—A. I do not know whether it came from the Secretary, or in what way it came; but I have answered you that I have the impression that the nomination was made by General Butler. The department decided, and wrote me full and specific instructions that I must delegate the assistant superintendent, and I obtained permission to have my clerk go with him. I do not think that it would be proper for me to state that it came to me from the Secretary in any form to make that recommendation; it certainly did not in writing; and I do not think it would be proper for me to state that it came to me from the Secretary verbally.

Q. Where does Mr. Hale reside?—A. I have been told that he resides in Salem.

Q. Do you know what his business is?—No, sir. When I speak of a letter of recommendation I do not mean to imply that I had not been consulted about it. I had supposed that Mr. Hale had some knowledge of the business, but I knew nothing of his antecedents. I did not know him personally.

Q. Do you know him now?—A. No, sir; I would not know him if he should enter the room.

Q. You do not know that he ever had any experience in the business?—A. No, sir.

Q. You never heard that he had?—A. No, sir.

Q. What, in your opinion, will this building cost?—A. That is a very difficult question to answer. We have no working drawings. Mr. Mullett has sent me two facades, but I have not the detailed plans for the interior.

Q. Is there any difficulty here in Boston, in making plans, specifications, and detailed

drawings, and sufficiently accurate estimates, to contract for the entire completion of such a building as that before its construction is begun?—A. It would be a pretty large matter to do that. It would be, I think, a six months' job for any corps of assistants that I ever had, and I have some twelve young men who are competent men. I do not think that a complete set of working drawings, and studies of the interior finish, and everything, could be made in less than about six months' time, upon which a reliable estimate could be made. In fact, in my experience I have no knowledge of a building of that magnitude being ever let out in round dollars.

Q. Is there any difficulty in making estimates?—A. No, with proper plans and specifications complete.

Q. Of course, plans and specifications can be made before the building is commenced?—A. Yes, sir. For instance, take the great room in this building; I do not know whether it has been decided how that great room is to be finished. It is pretty difficult in a building of this magnitude to arrange everything in advance. For instance, it might depend upon appropriations.

Q. Aside from appropriations, is there any difficulty in completing plans and specifications, and having estimates, before a building is commenced?—A. No, sir, with proper time and proper help.

Q. So that you could say to the government, within a reasonable limit, how much the building would cost?—A. There is no difficulty about it.

Witness subsequently came before the committee, and said:

A. I think that the whole granite will amount to about 18,000 tons. I think it will take nearly 4,000 tons for the building below the first floor, and 14,000 tons for the superstructure.

By Mr. TWICHELL:

Q. How much room belonging to the city do you get outside the building for the basement floor?—A. We get the whole width of the sidewalk, deducting only the thickness of one retaining wall. I think that gives us 6 feet by 440.

Q. Do you pay the city anything for that?—A. Not one cent. We have a permit given us without money and without price, and that permit we have fully. The only restriction is that we shall cover it in a substantial manner.

BOSTON, *January 3, 1870.*

JONAS H. FRENCH sworn and examined.

By the CHAIRMAN:

Question. State your residence and occupation. —Answer. I reside in Boston. I am president of the Cape Ann Granite Company.

Q. How long have you been president of the Cape Ann Granite Company?—A. Ever since its organization in July, 1869.

Q. About what time in July?—A. About the 6th, I think.

Q. Who, at that time, constituted the company?—A. Myself, Mr. N. A. Thompson, Mr. E. R. Wiggins, and Mr. William E. French.

Q. How much was the capital stock of the company?—A. One hundred thousand dollars.

Q. Who were the other officers of the company?—A. I am the president, and Mr. H. H. Bennett is the treasurer, and he acts as secretary; there is no vice-president. The directors are Mr. Thompson, Mr. Wiggins, and Mr. William E. French, a brother of mine.

Q. What is the business of Mr. Wiggins?—A. He is agent for the Moseby Bridge Company, and is an attorney, I believe. He resides in Boston. Mr. Thompson is an auctioneer, residing in Boston. Mr. William E. French is a distiller, but is out of business now.

Q. What has been your occupation?—A. I am a distiller.

Q. Are you distilling now?—A. Yes, sir.

Q. Where?—A. In Essex street, Boston.

Q. Have you ever been in the stone business before the organization of this Cape Ann Granite Company?—A. No, sir.

Q. When did the company purchase this quarry?—A. We took possession on the 1st of April, 1869.

Q. Before the organization of the company?—A. Yes, sir. I purchased the property and took possession. I purchased it of six gentlemen: Mr. Coburn, Mr. Clough, Mr. Curtis, Mr. Clifford, Mr. Hale, and Mr. Torrey. These six persons owned the quarry. At that time I only purchased five-sixths of the quarry; I have since purchased the other sixth of Mr. Coburn.

Q. Do you know of whom they purchased?—A. I do not.

Q. Did you ever examine the title?—A. The title was examined by my attorney. The title came, I think, through one William B. Doliver, of Gloucester.

Q. Did you organize your company under any statute law of Massachusetts?—A. Under the general law of Massachusetts.

Q. Your organization is on record in the office of the secretary of state?—A. Yes, sir.

Q. Is there any record kept of the number of shares that each share-holder holds?—A. Yes.

I do not know that it is necessary to put a record of that in the office of the secretary of state, but there is a record upon the books.

Q. What did you pay for this quarry?—A. I paid at the rate of \$18,000 for the quarry—that is, I bought five-sixths of it.

Q. Do you know how long these gentlemen had owned the quarry before they sold it to you?—A. Seven or eight years, I think; they owned it before the war.

Q. You purchased it in April, 1869?—A. In April or March. I took possession on the 1st of April.

Q. Did you buy it before or after the appropriation was made for the Boston post office?—A. I do not know.

Q. Did you know at the time you purchased the quarry that an appropriation for the Boston post office had been made?—A. I did not.

Q. How did you first learn that an appropriation had been made for the erection of a post office in Boston?—A. I cannot tell you.

Q. You put in a proposal for the furnishing of the granite?—A. Yes, sir; I received a letter, and I put in a proposal under it.

Q. From whom did you receive the letter?—A. From the superintendent, Mr. Bryant.

Q. Had you ever seen him before that?—A. I had.

Q. You had told him that you owned a quarry?—A. I do not know that I told him so; I have no doubt that he knew it.

Q. Did you work the quarry before the company was organized?—A. I worked it from April to July.

Q. Getting out stone for what purpose?—A. For paving—to make these square stones for paving.

Q. Had the quarry been worked before you worked it last spring?—A. It had been idle for a couple of years or so.

Q. Had it been worked much before that?—A. Yes, sir; quite extensively at one time.

Q. Who first suggested to you that you should put in a proposal for the furnishing of the granite for the post office building?—A. I do not think that any one suggested it to me. The thing was generally talked of, and I went to see Mr. Bryant.

Q. Did you request any one to assist you in getting the contract?—A. I did not.

Q. You never did at all?—A. No, sir.

Q. Were you told what the proposals of the other bidders were when you made yours?—A. No, sir.

Q. None of them?—A. No, sir.

Q. You are sure that you never asked another to recommend you for the contract?—A. I am quite sure of that.

Q. Where does Mr. Doliver live?—A. In Gloucester. The title which Coburn & Co. got of the quarry came from Doliver, and perhaps some others; I think that Doliver owned the most of it.

Q. Do any of the Cape Ann Granite Company reside near Boston?—A. No, sir; they all live in Gloucester; all in the vicinity of the quarry.

Q. Have you mentioned the names of all the parties who have an interest in the quarry?—A. I have.

Q. Directly or indirectly?—A. Directly or indirectly.

Q. You were not acquainted with the quarrying business?—A. Until that time I was not.

Q. How came you to go into the business?—A. I was in Washington on some matters connected with my own private business, and one day in conversation with General Butler, I told him that I had some loose capital. We were talking of investments. He told me of this piece of property near his country residence in Gloucester, which he said was reported to be the best quarry on the Cape. He said that he thought that, if conducted upon a large scale, it would be a profitable investment, and he advised that I should buy it. I did not think much of it at the time, but I went home and made inquiries concerning the business, and investigated the property and purchased it. That was in the winter of 1868-9; I think it was several weeks before I purchased; I took possession in the last of April. I do not know the date of the deed.

Q. Did General Butler suggest to you what inducements there would be to work the quarry on a large scale?—A. He told me that there would be a very large demand for paving, and that these men down there were making, he thought, a good deal of money on paving. He mentioned no other inducement.

Q. Did you have any conversation with him then or at any other time in reference to obtaining this contract?—A. No, sir.

Q. Have you had any conversation with him recently in reference to the building?—A. The only conversation that I have had with him recently that I remember, was in relation to the contract. I do not recollect whether I showed him the contract or not. I think I did. I told him I thought it was a very hard contract for the contractor, and I asked him to look at it. He did so, and he said, that if I thought I could get the stone, he saw nothing in the contract but what was all right.

Q. That was after you made the first contract?—A. That was the first contract.

Q. Can you fix the date when you were in Washington in the winter?—A. I cannot. I

was there in relation to my distillery. There was some misunderstanding in reference to an assessment that they had put upon me, and I went to Washington to see the Commissioner of Internal Revenue. It was soon after the appointment of Mr. Delano.

Q. Were you prosecuted or anything of that sort?—A. No, sir. The distillery was at one time seized, but it was released. I never was prosecuted.

Q. How came you to see General Butler at that time?—A. Because he was my personal friend. I have always called upon him ever since I was upon his staff.

Q. Did he introduce you to the Commissioner?—A. He went with me to the Commissioner.

Q. To assist you in that matter?—A. Yes, sir.

Q. How long has your acquaintance with General Butler extended?—A. I was on his staff in New Orleans as provost marshal of New Orleans and provost marshal general of Louisiana.

Q. Did you go with him to that department?—A. I went out in command of a Massachusetts regiment, and I afterwards joined his staff. I was lieutenant colonel and in command of the regiment. There was not a colonel for it until after I went on General Butler's staff.

Q. Did you get any assistance from any source to purchase this quarry?—A. None whatever. I did not require it.

Q. You paid at the rate of \$18,000 for the quarry?—A. Yes, sir.

Q. How much area did the quarry embrace?—A. Originally sixty-nine acres and a fraction. I have since bought twenty odd acres in addition.

Q. How many men have you in your employment now?—A. About two hundred and twenty quarrymen and hammerers.

Q. Are you getting out stone for any other purpose than for this building?—A. I am getting out stone for paving blocks.

Q. How many men have you at work on your contract for the building?—A. I think that the last time I was down there last week, there were one hundred and twenty-six men cutting, and from seventy-five to one hundred quarrying.

Q. The moving of the stone and the delivery of it here, is a part of the contract?—A. Yes, sir.

Q. You are not paid anything extra for that labor?—A. No, sir.

Q. Who keeps the tally of the men employed on the cutting?—A. My clerk, Mr. Bennett, keeps it there. I am told, however, that a person has been appointed by the government for that purpose. I do not know whether he is at the quarry or not. He is a Mr. Hale. I do not know him.

Q. Then, of course, you did not recommend his appointment?—A. No, sir; I do not know anything of him at all. I think he lives at Salem or Danvers.

By Mr. TWICHELL:

Q. What number of hours do these men work?—A. Ten hours.

Q. Does Mr. Bryant, the superintendent, require that they shall work ten hours?—A. I do not know that Mr. Bryant has anything to do with them. I require them to work ten hours. Quarrymen work eleven hours when they can. They work as early as they can see in the morning, and as long as they can see in the evening. The rule of working on the Cape is: for quarrymen, eleven hours; and for stonecutters, ten hours.

Q. If you have a foreman to look after these men, is his pay charged to the government?—A. No, sir. The immediate foremen of the gangs are charged to the government; but I have beyond them a foreman, who has general supervision of the cutting, whom I pay and whom the government does not pay.

Q. These foremen of the gangs are working men, are they not?—A. Yes, sir.

Q. Does anybody get pay on the pay-roll on which you get the fifteen per cent. except those who work ten hours a day?—A. No, sir; none other. They do not work for the government; they work for me.

Q. If you have a man working on the government work and on paving stone, dividing his time, no part of that outside of the government work is charged on which you get the fifteen per cent.?—A. No, sir. There is no man on the pay-roll who is not actually engaged on this job.

By the CHAIRMAN:

Q. That includes the laborers, the hammerers, the cutters, and the man who lays out the work for them?—A. Yes, sir. The general foreman, who has charge of the whole thing, does not get pay from the government. I employ a man who is an accomplished stonecutter and who has entire supervision of this job. Him I pay myself. He does not go upon the government pay-roll. The only foremen who go upon the government pay-roll are foremen of gangs, who get one or two dollars a day over the ordinary price of stonecutters, and who do an entire day's work themselves.

By Mr. TWICHELL:

Q. Suppose the men should only want to work eight hours a day, can you by any arrangement enforce ten hours work?—A. It is my contract; the government has nothing to do with it.

Q. Is there any arrangement between you and the government by which they are to work ten or eleven hours a day?—A. Nothing was said about it. I have liberty, as I understand, to work the men as many hours as I can get them to work.

Q. Suppose they should work but six or eight hours a day, could you charge a day's work for that and charge fifteen per cent. on it?—A. Yes, sir; because there is no arrangement on the subject that I know of.

Q. If these men should work but six hours a day, is there no check upon that by the government or the government officers?—A. There is nothing stated in the contract.

Q. Could Mr. Bryant, Mr. Hale, or Mr. Mullett decline to pay them on the roll because they did not work ten hours?—A. Yes; I have no doubt that they could. If they should strike for eight hours, I should stop the work at once and should not submit to an eight hour strike.

Q. How do you fix upon the price that you are to pay them?—A. We pay the ordinary rate for that kind of work; some men are worth more and some less, according to the kind of workmen they are.

By the CHAIRMAN:

Q. You say that your clerk keeps the tally and time table?—A. Yes, sir.

Q. That is when the government has no agent there?—A. Yes, sir.

Q. How much of the time has the government no agent there?—A. Mr. Leighton, the assistant superintendent, was appointed some time since and has been down there; also Mr. Whittle, the clerk. That has been done some three or four weeks since.

Q. During those three or four weeks one or other of them has been there all the time?—A. Yes, sir.

Q. You understand that another man has since been appointed for that purpose?—A. I so understand.

Q. Do you know how he came to be appointed?—A. No, sir.

Q. Did you request the change?—A. No, sir.

Q. Did you find any fault with the other gentlemen?—A. No, sir; they were entirely satisfactory.

Q. Did you have any correspondence with any one about the change?—A. No, sir.

Q. Did anybody say anything to you about it?—A. No, sir; I had not a word with anybody about it.

Q. How much stone had you taken from the quarry before you commenced this contract?—A. I cannot tell; I should think two or three thousand tons. I sold a good deal of paving stock, cellar stone, and foundation stone.

Q. You had not done anything for superstructure or cut stone?—A. I had not up to that time.

Q. At the time you purchased the quarry was there machinery there for working it, sheds for hammering, &c.?—A. There were a few sheds up; but I had to build sheds and derricks, and everything of that kind.

Q. Are the other quarries in that vicinity being worked?—A. Yes, sir.

Q. Is the stone of the same kind?—A. Yes; but I think mine is better.

Q. It is the same general quality of stone?—A. Yes, sir. There are four quarries there that are worked pretty extensively.

Q. Do you still carry on your distillery here?—A. Yes, sir.

Q. You do not spend much time at the quarry?—A. I try to be there three days in a week. I am always there two days.

By Mr. BOYD:

Q. Are any of those quarries idle?—A. All that I mentioned are being operated.

Q. Continuously?—A. Continuously. In the winter, of course, there is comparatively very little done in quarrying, but they are operated all the time.

By the CHAIRMAN:

Q. At the time you organized the company you had purchased individually five-sixths of the quarry?—A. Yes, sir.

Q. You then purchased the other one-sixth alone?—A. Yes, sir; comparatively lately.

Q. Since the organization of the company?—A. Yes, sir.

Q. When you organized the company, you made the stock \$1,000,000?—A. I did.

Q. What did your partners pay you—are they equal partners?—A. We have \$50,000 cash paid into the company by them and by myself. I own 425 shares of the stock myself, and these other gentlemen own 25 shares each, making 500 shares. That is all that has been issued.

Q. The paid in capital is \$50,000?—A. Yes, sir.

Q. Did you make that organization before or after you got this contract?—A. I made it before I got the contract. I commenced the organization before any contract was made.

Q. Did you complete your organization before the contract was made?—A. It was completed, with exception of an advertisement that was necessary.

Q. The contract, however, was pending at the same time that the organization was being made?—A. I think the original contract was dated about the 13th of July, and the organization was effected, I think, about the 6th of July.

Q. Was a contract made before it was reduced to writing?—A. No, sir. It was reduced to writing some time, I think, about the 30th of June, or the 1st of July.

Q. Was the contract made with the government before it was reduced to writing?—A. No, sir.

Q. How long was it from the time you put in your proposal until the contract was signed?—A. I do not recollect; it took some time.

Q. Was not your proposal put in in June?—A. It is my impresssion that it was.

Q. And from that time on you were bringing it to a focus?—A. Exactly.

By Mr. TWICHELL:

Q. Where were the terms agreed upon?—A. Here in Boston, with Mr. Bryant.

Q. But you had given your terms to Mr. Mullett.—A. I put in my proposal, and that I suppose was sent to Washington. In the meantime I believe Mr. Mullett had been on here.

Q. Do you know whether Mr. Mullett examined the quarry personally?—A. He did. He went down with me and examined it very thoroughly, and examined the other quarries in the vicinity.

Q. After you had made your proposal, or before?—A. After. Mr. Bryant also examined the quarry partly, and Mr. Burt examined it.

Q. And they then accepted your proposition in substance?—A. Not at that time. I got a notice afterward that my proposition was accepted, and then the contract was reduced to writing and signed. That was the contract for the foundation and basement story.

Q. And you afterward made a contract for the superstructure?—A. Yes.

Q. And the contract speaks for itself in regard to terms and conditions?—A. Yes, sir.

Q. By the terms of that contract you are to have thirty-nine and three-fourths cents per cubic foot for this lower stone where the stone does not exceed twenty cubic feet, and where it does exceed twenty cubic feet you are to have one cent additional per foot. Is that one cent additional to be paid upon the whole stone or upon the excess over twenty feet?—A. Upon the whole stone.

Q. If there are twenty-one feet you get forty and three-fourths cents for the whole of it?—A. Yes, sir.

Q. That was the understanding when the contract was signed?—A. Yes, sir; so I understood.

Q. And you make your charges accordingly?—A. Yes, sir.

Q. So far as you have furnished stone, what proportion exceeds twenty cubic feet?—A. I cannot tell you; it is a comparatively small proportion; the detailed plans of the piers would show it exactly.

By Mr. BOYD:

Q. How do you know that the proportion is very small?—A. I know by what we have sent already.

By Mr. TWICHELL:

Q. What are the men now cutting for, for the building itself?—A. Yes, sir.

Q. Do you have a detailed specification of the dimensions of each stone?—A. Yes, sir.

Q. And you are cutting according to the specifications?—A. Yes, sir.

Q. You have nothing to say about the size?—A. Nothing whatever. That comes from the plans.

Q. So that, if they please, they can make every stone within twenty cubic feet?—A. Yes, sir; I have nothing to say about it. I take their detailed plans, as they send them, and cut the stone accordingly. I have no discretion in the matter.

Q. Is the number of feet marked on each stone?—A. No, sir; the stone is lettered for its position.

Q. Who gives you the measurement upon which they are settled—the government men or your men?—A. The government men. The details of each stone are given me bonded, as they are called.

Q. They are not measured by your men at all?—A. No, sir. They are taken from the plans. My people have nothing to do with the measurement at all.

Q. What security has the government that it gets ten hours' work of your men?—A. Through its time-keeper. I was served with a copy of the instructions from Washington which I will furnish to the committee. Ten hours' work is exacted, and the men must do a full day's work.

BOSTON, *January 3, 1870.*

O. E. SHELDON sworn and examined.

By the CHAIRMAN:

Q. State your residence and occupation?—A. I reside at Milton, Massachusetts; I am in the granite business.

Q. How long have you been in the granite business?—A. About thirty-two years.

Q. Have you a quarry?—A. Yes, sir. My company has two quarries; one in Concord and the other in Quincy.

Q. Were you interested in a bid for furnishing granite for the post office?—A. I was for the basement walls.

Q. Not for the upper part of the building?—A. No; I think not.

Q. Did you know that the government was about to make a contract for the granite for the superstructure?—A. I did not know whether it was or not. I have heard that the contract for the superstructure was given. We had no invitation whatever to make a bid, and were not apprised of the contract being about to be let. I have the advertisement here for the granite for the basement, which is the only one I ever saw. I believe that our proposition was rejected. I did not make another bid. I was informed that all the bids for furnishing materials were rejected, but after that there was a notice sent round to all who had bid, and, I think, we made another proposition. I am confident that we did. We made no proposition upon hammering the stone. We were notified for the hammering for the basement, but not for the superstructure.

Q. You were never notified for the hammering or for the furnishing of the stone for the superstructure?—A. No, sir.

Q. You saw no advertisement for it?—A. No, sir.

Q. Do you furnish granite in Boston?—A. Yes, sir; we furnish granite all over the United States.

Q. Are you acquainted with Jonas H. French?—A. Yes, sir; I never knew him until this post office business came up.

Q. Do you know his occupation?—A. I understand that he is in the granite business now.

Q. And in some other business?—A. I have been informed that he is running a distillery.

Q. Would you have proposed the furnishing of the granite for the superstructure and the cutting, if you had been invited to do so?—A. We generally bid on all those large contracts. We would not stand back much. If we had bid, we should have bid to furnish the whole thing complete delivered at the site of the building. If you had asked us to bid for putting the whole building up, we should have told what we would do it for. We have done about as large buildings as anybody in the country. We have plenty of material and plenty of money to hire men.

Q. Can you give anything like a correct estimate of what it would be worth to furnish the granite for the superstructure?—A. I could tell you exactly what we would do it for, if you furnished me the plans. I do not mean the details, but plans upon a one-quarter inch scale. I will tell you just what we will do it for, and will give bonds for the performance of the work, if we are successful in getting the job. We have done a good deal of work for the government at one time and another.

By Mr. BOYD :

Q. There would be no danger of your throwing the contract up?—A. We might. We are doing as much granite business as anybody else, and a good deal more, and we have done it for years, and have never yet given up a job, but I cannot tell what we might do.

By Mr. TWICHELL :

Q. You say that your quarries are at Quincy, Massachusetts, and Concord, New Hampshire?—A. Yes, sir.

Q. Is not the Quincy granite regarded as rather too dark in color for those public buildings?—A. It is in Boston and New York considered rather dark.

Q. The Concord granite is lighter in color?—A. Yes; much lighter.

Q. It is nearly the color of the Sandy Bay granite?—A. It is much lighter than the Sandy Bay granite. Sandy Bay stone is about half way between Concord and Quincy granite.

Q. Would you have made an arrangement, by which you would have put your quarries into the government's hands?—A. I think the company would not do it.

By the CHAIRMAN :

Q. Would you be willing to make such a bargain with the government as that, if you could not get out the stones yourselves to complete the job; the government could go in and quarry the stone?—A. If we could not get the stone out, the government could not. That is all there is to it.

Q. Would you be willing to agree to that?—A. I think our company would not lease its quarry in any way.

Q. Would your company be willing to give the government the right to run the quarry, in case you could not get out the stone to complete the job?—A. I do not know that I have any qualification to put upon the statement I have made. I think that with our means and facilities we can do the work as cheap and as quick as the government can, and we would give good security that we would.

By Mr. TWICHELL :

Q. You do not approve of leasing your quarry or of putting it out of your hands in any way?—A. Our company said they would not do it.

Q. Does that apply to just what Mr. French has done; you mean to say that you would not do what he has done?—A. Yes, sir; Mr. French furnishes stone cheap enough; cheaper than we would.

By the CHAIRMAN:

Q. You mean stone for the basement?—A. Yes, sir, for the basement. I would not look at it for that price. I have nothing to say against the stone or against the work. Mr. French has very good stone, and as well cut as you could ask for.

By Mr. TWICHELL:

Q. And he furnishes it at a lower rate than you would?—A. Yes; so far as furnishing the stone. I do not know anything about the cutting. I did not bid upon the cutting. I would not furnish the stone so low.

By the CHAIRMAN:

Q. Would you furnish the stone for the superstructure so low?—A. I do not know what he has agreed to furnish it for.

A. About fifty-eight cents per cubic foot?—A. No, sir; I should not. There are different ways of measuring a stone. I suppose the stone is measured from the extreme points. If I were buying stone, I should measure its working dimensions. The stone has to be dressed smooth and plain, and it would depend upon circumstances and upon agreement whether you would measure it from extreme points.

By Mr. TWICHELL:

Q. As you are a large contractor, I wish you would state what you would furnish stone for, per cubic foot, for this building.—A. It is very difficult for me to say; I do not know how large the stone is to be; a large stone is worth a good deal more than a small one.

Q. Take a stone of twenty cubic feet as your basis?—A. It is hard to tell; I should want to see how big the stone was, and I should want to see a picture of the building, so that I could judge something from it.

Q. Would you furnish stone for sixty-five cents a cubic foot?—A. I cannot tell you; Mr. French's contract, I understand, is for fifty-five cents; I say I should not do it for that.

Q. And one cent additional upon every cubic foot over twenty feet?—A. I should not do it for that.

By the CHAIRMAN:

Q. Take the case altogether; suppose you had to furnish the stone at so much, and then were to receive fifteen per cent. upon the cutting, and have your royalty for bankage and wharfage?—A. As I have not seen the contract I cannot say; if you agree to pay all the bills for carrying on the work, and to pay for the shops and tools, and then, on the top of that, pay fifteen per cent., perhaps I might make you a bid, if the job is in the market, but I should want it pretty well specified.

Q. Do you think that fifteen per cent. would be more than your ordinary chances of profit? A. I do not think it would.

By Mr. FERRY:

Q. With all these expenses paid by the government, the contractor gets his fifteen per cent., together with a royalty of twenty-five cents a ton for wharfage and bankage. I ask you whether you would deliver the same quality of stone for the superstructure at less than fifty-five cents a cubic foot?—A. Before I could answer anything with reference to the fifteen per cent., I should want to figure it somewhat; the stone is low enough.

BOSTON, January 3, 1870.

WILLIAM L. BURT sworn and examined.

By the CHAIRMAN:

Question. State your official position.—A. I am postmaster of the city of Boston, and hold a commission as disbursing agent of the government, and as custodian of the post office site.

Q. State whether you have taken an interest in the preparation of the plans for the Boston post office.—A. I was in Washington with Governor Andrew on business connected with our State, when the matter of getting a joint resolution through Congress with a view of selecting a site came up. The joint resolution passed, and was approved on the 2d of March, 1867, authorizing a certain commission, consisting of the postmaster, the Assistant Treasurer of the United States, the president of the board of trade, Governor Andrew, and one or two others, to select a site for a building for the post office, sub-treasury, and other public offices. We went forward, under that authority and organized the commission, of which I was made secretary. We immediately advertised for proposals for a site within certain limits, and requiring a certain quantity of ground. This advertisement was published in all the Boston papers. We had offers of several places; but, finally, we selected

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from all the rest the present site, which fronts on Devonshire street, and runs through from Milk to Water street, about two hundred and fifty feet front. We selected that because it is very central, and because it was almost impossible for us to get sufficient ground for a post office, that was not already pre-occupied by valuable buildings.

Q. State whether, in your opinion, the site is a good one.—A. A very excellent one, taking all things into consideration; it is regarded so, universally, in Boston; for present purposes it is undoubtedly the most central one we could get.

Q. Have you assisted, by giving aid and counsel, in the preparation of plans for the building?—A. The plans were began immediately; the Secretary of the Treasury and the Supervising Architect were both opposed to having a post office and sub-treasury here; I commenced immediately, on my own hook, making examinations and procuring plans of other offices, and it was nearly a year before we secured the co-operation of the Supervising Architect and of the Treasury Department.

Q. State whether your plan as to the interior has been followed in the main?—A. I think we have matured a plan which we all agree upon, and which is to be carried out.

Q. State whether you had anything to do with the advertising for proposals for work on the building.—A. As the appropriation was made on the 4th of March, and was not available until July, leaving an intervenient time of four months, many contractors came to see me during that time; and in that way, before the advertisement was published, I had seen very many of them; when the advertisements were published and the bids received, Mr. Bryant opened all the bids at my office, except the final one in regard to the cutting of the granite; at that time I was in Washington, and it was opened by Mr. Slack, the internal revenue collector for the district.

Q. The granite was not advertised for?—A. It was not advertised for as material separate from the quarry.

Q. Are you acquainted with Mr. French, who has the contract for furnishing the granite?—A. I know Mr. French personally; I do not know that he has the contract except as representing Cape Ann Granite Company.

Q. Had you any knowledge as to who constituted that company?—A. I never have known, and do not know to-day a single person, except him as an officer; the checks I make payable to his order as president.

Q. Do you know of any other parties interested in the quarry?—A. Not a single person.

Q. Did any person ever speak to you about getting the contract for French before he received it?—A. No, sir.

Q. What was his occupation before he got that contract?—A. He is known here in our business circles as a distiller; I think he is the largest distiller that we have in this part of New England.

Q. Was he in the army?—A. He was; General Butler organized an expedition, under special order from the War Department, in which Colonel French took part; I was then upon Governor Andrew's staff organizing regiments.

Q. Did Governor Andrew commission Colonel French?—A. He did not.

Q. Did he decline to do it?—A. He did.

Q. Did he refuse to commission him because he thought him not worthy of a commission?—A. I have stated that he declined to commission him, but it is not possible for me to know what his reasons were; he did not consider it his duty to issue a commission to him.

Q. Did he commission a portion of the officers of that expedition?—A. I think a portion of them were commissioned.

Q. Did he commission those whom he thought to be worthy and proper persons?—A. I think he would not, under any circumstances, have signed a commission for a person who was not worthy to receive it; I have no doubt that he thought every man whom he commissioned worthy.

Q. State whether you are acquainted with the reputation of Mr. French in the city of Boston.—A. Yes; I am acquainted with it.

Q. If you are acquainted with his reputation as a man of integrity and worthy among the people who know him, you may state what that reputation is.—A. My knowledge would be limited, I think, to two points; I know of him in his political relations, and I know of him in his business relations, and I think I do not know of him beyond that; he is a citizen of Boston, has his home here, and is one of our largest distillers.

Q. Have you heard him frequently spoken of?—A. Yes; in connection with this post office matter, and in connection with New Orleans matters; he is not a man whom the public would have a decided opinion about, except as he is brought up in connection with some matter.

Q. As brought up in connection with this contract, and in connection with whatever else you have heard spoken of, what is his reputation?—A. He is unquestionably a man of means to carry out the contract.

Q. That is not the question. What is his reputation for integrity and moral worth among the people whom you have heard talk about him?—A. I do not believe that I can enlighten the committee upon that point. I have heard Colonel French criticised severely.

Q. For what?—A. For special matters. My criticism of Colonel French comes up out of that matter of his not getting his commission, and out of his relations in New Orleans.

In this very matter here, he is open to those same remarks and criticisms. Independent of those two things, I do not believe a gentleman ever spoke about him.

By Mr. FITCH :

Q. You know that he has a reputation in the community?—A. His reputation as a business man is that he is a man who fulfills his engagements.

By Mr. FERRY :

Q. If you were selecting a man—all other things being equal as to capacity, &c.—would you select this man to oversee work for you, wherein you had to rely upon his integrity, and where a dishonest man would involve you in a great deal of expense, which an honest man would keep you out of?—A. My personal acquaintance with Colonel French would not lead me to select him for such a place. Not that if I knew him better, he might not be such a man; but I would not select a man whom I could not myself swear by.

Q. Would you, from your knowledge of him specially or generally, make such a selection yourself for your own private interests?—A. I should say not.

By the CHAIRMAN :

Q. Did you recommend a contract to be made with Colonel French?—A. No, sir; I did not.

Q. I find that in Mr. Mullett's testimony he has expressed an intimation that you had some interest in this quarry. I ask you whether you have, or whether you have at any time had an interest in it?—A. No, sir; I have no interest in any form, directly or indirectly, contingent or otherwise, in any possible contract that has been made in regard to this property, in regard to granite or supplies of any kind—none whatever. On the contrary, I have been advising the rejection of every contract which, upon my own knowledge and upon careful inquiry, I supposed to be exceeding proper rates. I do not know a single stockholder in this quarry; I am not one myself, and I have no interest whatever in that or any other thing connected with the post office.

Q. Do you know anything about the men who have had charge of keeping the time of the stone-cutters working for the government at the quarry?—A. Up to the first of January, the time has been kept by Mr. Leighton, the assistant superintendent, and by Mr. Wittle, the clerk to the superintendent, who has been in the treasury employ for a long time. Mr. Leighton is a practical mechanic, a stonecutter, and a mason.

Q. Did you recommend the appointment of either of those men for that purpose?—A. This work is done at Cape Ann, and as I am required, under printed instructions from the department, to know that the work is done, the suggestion was made that during the winter months, when there would be less work for the assistant superintendent to do, the time of the stonecutters could be kept between him and Mr. Wittle. I did recommend strongly that arrangement.

Q. These parties were very competent and faithful men?—A. Beyond any question.

Q. Have you recommended their being superseded by the appointment of Mr. Hale?—A. I have not; I do not know Mr. Hale. I should not recommend their being superseded by anybody.

Q. It appears that Mr. H. Hale has been appointed at \$6 a day to keep an account?—A. It is more than keeping an account. The letter of instructions which goes with that appointment is very particular, very minute, and if lived up to will protect the government.

Q. If the man appointed to keep time at the quarry should conspire with the contractor at the quarry, is not the government at their mercy in regard to being cheated?—A. We should have at work there to-day from one hundred to two hundred men, who are more or less skilled workmen. Their pay depends upon their skill and the manner of doing their work. I, for one, should be utterly worthless to decide as between half a dozen men, which of them should be paid \$3 a day, and which of them should be paid \$5. And yet men can be employed on the same work and properly paid, some at \$3, and some at \$5.

Q. Do you know what Mr. Hale's business has been heretofore; does he understand stone-cutting?—A. I made that inquiry when his name came up, and I could not learn that he is connected either with building or stone-cutting. I have got the impression that he is not a mechanic; at any rate, that he is not acquainted with stone-cutting.

Q. Do you know where he resides?—A. I do not; but I understood that the papers were to go to Salem. I think that there was something done about appointing this very person before, and I felt, when Mr. Mullett was here, that he ought to be very particular in that matter. I think that at that particular point is likely to be the greatest leak. I have undertaken to verify, so far, the work on that building. There must be a competent and honest man to see that the work is done at the quarry. Mr. Hale may be such a man, but my information does not lead me to believe that he is a competent man.

Q. I want to ask your opinion as to whether it would not be better to put the construction of such a building as the Boston post office under the entire control of a commission of gentlemen in the city who would take an honest pride in doing justice to the government, and justice to the city, and justice to the contractors, rather than to have this divided responsibility between Boston and Washington, partly political and partly otherwise.—A. I

think not. If I had not the government behind me to fall back upon when I say no to people, I would not, for any consideration, be in my present place, or have any discretion. I do not have it in my power to say yes or no on my own judgment and discretion. The Treasury Department relieves me of all responsibility of discretion, and gives me instructions, and I can live right up to those instructions with friend and foe. I can hold the reins tighter to-day, under these circumstances, than the best commission could do.

Q. Your argument would prove that a private individual, in the city of Boston, cannot erect a building as cheap as the government can?—A. No; that is different. When the ownership is in you, as a private individual, and where your own selfish interest is allowed to operate, you make the best arrangement you can.

Q. Can the Secretary of the Treasury decide better in Washington a question arising here than it could be decided by competent persons on the spot?—A. These large things are always decided better under general rules than in special cases.

Q. Could not the commission act under general rules?—A. It would not be bound by them.

Q. If you were a commissioner, with directions to make reports from time to time, could you not decide questions better than they could be decided in Washington? In that case you could appoint your own time-keeper.—A. Yes; and I think that the moment Secretary Boutwell understands the importance of such a thing, if this man does not perform his duties well, Secretary Boutwell will immediately remove him.

Q. He did not appoint him on your recommendation?—A. No, sir.

Q. Nor on Mr. Bryant's recommendation?—A. No, sir. If it should turn out that Mr. Boutwell knows this man himself, then his integrity is not to be questioned.

Q. You have no difficulty in saying "No," as a postmaster?—A. I do sometimes.

Q. Suppose you were a commissioner to control the erection of this building, could you not discharge your duties as well?—A. I should have misgivings about it. I should dislike to be one of three or five men in the city of Boston to disburse three or four million dollars of patronage.

Q. Then what do you think of allowing two or three gentlemen in Washington to disburse that patronage in the city of Boston?—A. If they disburse it as patronage, I do not think much of them; if they do it as business, it is a different thing.

Q. Do you think it better that it shall be done by two or three political gentlemen in Washington than by a commission in Boston?—A. I should dislike to have it done by political influence in Washington.

By Mr. TWICHELL:

Q. Do you not know that Secretary Boutwell does not allow anything to be done that is not perfectly straight?—A. He is over-particular, over-sensitive about it.

Q. Is not Mr. Mullett particular?—A. I think he has been so to a very minute degree; he has expressed himself so to me.

Q. Does the government pay for the sheds at the quarry?—A. No, sir; I have had that matter pressed on me, and I have refused to pay for them.

By Mr. FERRY:

Q. The contract does not require the sheds to be paid for by the government?—A. I cannot say that it does.

By Mr. TWICHELL:

Q. Can you furnish the committee with a copy of the instructions to the time-keeper?—A. Yes, sir.

Witness subsequently furnished the paper which is attached to his testimony; he also furnished a statement of disbursements made on account of the post office building, up to the 1st December, 1869, which is also attached to his testimony. Witness also added:

In reference to beginning this work before the appropriation was available, I want to explain: When we bought this site for \$453,000, the city spent in one vote \$400,000 in widening the street, and \$50,000 for raising the grade, which has now been increased to nearly \$100,000; so the city of Boston, step by step, has put as much money into this thing as the United States government has. Although our appropriation was not available, we concluded that it was advisable to go forward with the excavation, in order to adapt it to the new grade, and thus accommodate the city as the city accommodated us.

By Mr. TWICHELL:

Q. What do you pay for cement?—A. \$1 95. The lowest bid we had was \$2 40, and up to \$2 60.

Q. What do you pay for iron?—A. The parties furnishing the patterns, and we furnishing the working-drawings, and delivering them on the site where they are examined and tested, we pay 3½ cents a pound. The bids went up as high as 4½ and 6 cents. The average price paid for iron in this city for granite buildings during the last four or five years has been 5½ cents. We pay 3½, which I think is the lowest contract made in Boston for five or six years. When we began upon it, it looked as if we would have to pay 6 or 7 cents.

TREASURY DEPARTMENT,

Office Supervising Architect, November 25, 1869.

SIR: You are hereby instructed to detail the assistant superintendent to attend for the time being to the duties of time-keeper of stone-cutting for the new post office and sub-treasury under your charge. It will be his duty to proceed without delay to the quarries at Cape Ann, or to such places as the stone may be cut, and keep from day to day an accurate account of the number of men employed in cutting the granite for the new post office and sub-treasury building under your charge; the number of hours' work performed by each man; the portion of the work on which he was engaged; and, in brief, to keep his accounts in such a manner that it will be possible for him to determine the cost of each stone cut by the contractor. It will also be necessary for him to ascertain from actual observation that every man employed is a good and competent man, and that he performs a full and fair day's work; and in event of any incompetent or lazy persons being employed, he will at once report the fact, and the name of the person so employed to you, when it will become your duty, in case you are satisfied that his statements are correct, to notify the contractors that the services of said person must be dispensed with, and to direct the time-keeper to certify to no pay-roll on which the name of such person or persons are placed.

He will also satisfy himself that the persons so employed are engaged only on work for the building aforesaid, and that the stone so cut is shipped to you, and described in the shipping list, which he will certify to. He will also satisfy himself that the wages paid to such persons are not above market rates, advising you in case any excess is paid.

At the expiration of each month he will certify on each pay-roll "that the persons whose names appear on this pay-roll have performed the service herein stated, and that the services have been exclusively devoted to the work of cutting stone for the new post office and sub-treasury in the city of Boston, State of Massachusetts; that the wages paid each are not over the usual market rates; and that each person was a competent workman for the branch of work on which he was employed, and that a fair day's work was performed by him."

The pay-rolls so certified will be transmitted to you for examination and approval, and when approved, used as sub-vouchers, and attached as such to vouchers in the usual form in favor of the contractors.

You will take especial care to satisfy yourself that the duties of the time-keeper are faithfully and intelligently performed; and you will not accept his certificate as final unless satisfied of its correctness, both as to time, amount, and price.

You are authorized to suspend the time-keeper at any time you may deem it for the interest of the government to do so, appointing a substitute, and reporting your action promptly to this office.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT,
Superintendent Post Office, Boston, Massachusetts.

Approved.

GEO. S. BOUTWELL, *Secretary.*

Statement of disbursements made on account of post office and sub-treasury building, Boston up to December 1, 1869.

Pay-roll for May, 1869.....	\$3, 195 80
Pay-roll for June, 1869.....	2, 902 76
Pay-roll for July, 1869.....	3, 626 42
Amount of vouchers, as per July abstract.....	9, 867 28
Pay-roll for August, 1869.....	3, 852 73
Amount of vouchers, as per August abstract.....	6, 753 36
Pay-roll for September, 1869.....	3, 671 09
Amount of vouchers, as per September abstract.....	6, 947 91
Pay-roll for October, 1869.....	2, 963 88
Amount of vouchers, as per October abstract.....	15, 899 79
Pay-roll for November, 1869.....	2, 165 13
Amount of vouchers, as per November abstract.....	1, 689 61
	63, 535 76

Amount received from Treasury Department:

1869.

July 14, by draft.....	\$30, 200 00
September 27, by draft.....	19, 000 00
November 6, by draft.....	60, 000 00
November 30, by draft.....	66, 600 00
	175, 800 00
Amount of disbursements as above.....	63, 535 76
Balance in hands of disbursing agent, December 1, 1869.....	112, 264 24

Expenditures on post office and sub-treasury building, Boston, up to December 1, 1869.

Artesian well.....	\$588 00
Area walls.....	11,304 96
Basement piers.....	27,591 62
Brick work.....	2,479 47
Clearing site.....	2,178 00
Concrete.....	732 19
Contingencies.....	7,360 76
Excavation.....	11,165 85
Fencing and sheds.....	1,119 60
Machinery.....	7,141 03
	71,661 48
Cost of cement on hand.....	1,365 21
Cost of bricks on hand.....	5 00
	73,031 69
Deduct amount reserved on account of internal revenue tax.....	183 66
	72,848 03
Amount of estimate for May, 1869.....	\$13,800 00
Amount of estimate for June, 1869.....	16,400 00
Amount of estimate for September, 1869.....	19,000 00
Amount of estimate for October, 1869.....	66,600 00
Amount forwarded to disbursing agent on account, without an estimate.....	60,000 00
Total amount received.....	175,800 00
Total amount expended.....	72,848 03
Balance.....	102,951 97

Statement of differences between the balance as shown by books of superintendent of construction and the disbursing agent of post office and sub-treasury, Boston.

Amount unexpended, as shown by disbursing agent.....	\$112,264 24
Amount unexpended, as shown by superintendent.....	102,951 97
	9,312 27

Vouchers, approved by superintendent, still unpaid :

United States Treasury extension.....	\$875 60
Morrison & Shaw.....	595 90
A. C. Wellington & Co.....	219 70
Bay State Brick Company.....	920 00
Massachusetts Brick Company.....	343 13
T. H. Carter.....	79 16
John C. Nichols.....	130 27
E. Tarbell & Son.....	9 20
T. W. Davis.....	69 00

Amount due for percentage reserved, under contract :

Cape Ann Granite Company.....	4,695 46
Charles Linehan.....	337 68

Amount due, vouchers not presented :

Cape Ann Granite Company.....	869 33
Charles Linehan.....	115 92
Boston Daily Advertiser.....	51 00
Claffin & Wellington.....	92
	9,312 27

Liabilities incurred by contract and otherwise, to be paid from appropriation, for foundations of the post office and sub-treasury, Boston, up to January 1, 1870.

Cape Ann Granite Company, labor and material.....	\$11,558 55
Cape Ann Granite Company, labor and material, estimated	15,000 00
Paulding, Kemble & Co., contract for iron columns.....	20,853 78
Bay State Iron Company, iron beams.....	16,085 35
	63,497 68

BOSTON, January 3, 1870.

JAMES G. BATTERSON sworn and examined by Mr. FITCH:

Question. State your residence and occupation.—A. I reside in Hartford, Connecticut; I am in the marble and granite business.

Q. Have you ever had any conversation with Mr. Mullett in relation to the investigation now going on as to the Boston post office?—A. I saw Mr. Mullett in Hartford some day last week, but I had no conversation with him as to any details of the matter at all. It was merely spoken of while we were together, that there was an investigation to be had in New York or here. I think I spoke of it first, or asked him something about it.

Q. State what transpired between you.—A. Nothing of any consequence, except that Mr. Mullett casually remarked that he thought they would find that the contracts were all right and upon as favorable terms as they could possibly be made. He said that he did not fear anything from an investigation, or made some remark equivalent to that.

Q. Since you got here, have you had any conversation with Mr. James H. French in relation to his contract?—A. Yes; I saw Mr. French in the other room, just as he came out from this room.

Q. State to the committee what transpired between you.—A. Nothing, except that he stated the price for which he was to furnish granite for the foundation of the post office at thirty-nine and three-fourths cents per cubic foot. He asked me if I would be willing to supply stone at that price, or something of that kind. The conversation changed immediately after that to matters which had no connection whatever with the question. I never saw Mr. French before until I saw him to-day.

Q. Did you receive any invitation to bid for furnishing granite for the post office building?—A. No, sir; I did not.

Q. Are your quarries so situated that you could furnish granite for the building?—A. Yes, sir.

Q. Have you furnished granite for any buildings in Boston?—A. No, sir. They are at Westerly, Rhode Island, and the freight from there is about the same as from Concord, or Quincy, or the other granite quarries, so that we ought to be able to furnish it as cheap as it can be furnished from any other part; but Boston has not been one of our markets for the stone; the demand has been in other directions for all that we can supply.

Q. Were you looking to have advertisements or proposals in regard to furnishing the granite for the Boston post office?—A. Yes, sir; I knew that the building was to be erected; and, if I had seen any advertisement for the granite, I should have looked into it and should probably have made a bid; but I did not know anything about it until after the contract was let.

By Mr. TWICHELL:

Q. You have not furnished stone for any building in Boston?—A. No, sir. We are now furnishing granite for the Connecticut Mutual Insurance Company in Hartford, a very large building requiring between three and four thousand tons.

Q. Do you know the price that the government is paying for the stone?—A. I have been told to-day the price that it is paying for the basement and foundation stone. I understood the price to be about forty cents per cubic foot.

Q. Do you know anything about the quality of the stone?—A. Yes, sir; know it well.

Q. Is the stone of good quality?—A. Yes, sir.

Q. How does this price compare with what you would have furnished stone for?—A. Forty cents a cubic foot is less than the cost of the material when quarried, either at Rockford, or Quincy, Concord, or Westerly, or at other places that I know.

Q. About what would cover the cost of delivering it at Boston?—A. I should think from sixty to sixty-five cents. But there must be a large loss on furnishing the stone for these foundations. There has been a good deal of feeling among the trade with reference to this contract, and it has grown out of this fact, that we supposed (at least I supposed it for one) that this contract was let without giving the trade an opportunity to bid for it—that it was made up in Washington and let to a man out of the business, who did not know anything about the business in the first place, and that the trade was wholly ignored. That was supposed to be the case. I never saw any advertisement; but I understood, since, that parties here in Boston did have an opportunity to bid for the contract, and did bid for it; but that their prices were above those offered by Mr. French, and that Mr. French got it. Undoubt-

edly, the contract, as it has been stated to me, will average well enough with the superstructure, basement, and all; but Mr. French undoubtedly loses money on the basement.

Q. Has the information that you have received since coming here changed your mind?—A. Yes, sir. I have seen Mr. Sheldon this morning. He was one of the principal complainants, and I find now that Mr. Sheldon did put a bid in for these identical foundations. Other gentlemen say that they had every opportunity for bidding for the contract, so that I am perfectly satisfied that the trade had every opportunity which it should have had to bid upon it, but they were out-generated by the low price offered for the foundations, and that price carried the whole thing.

Q. The contract is fifty-five cents per foot for the superstructure and one cent additional for stone over twenty feet. Now, if a stone is thirty cubic feet, instead of twenty, what would be the price for the whole of it?—A. I suppose it would be sixty-five cents. If the stone is forty feet, then the stone would be seventy-five cents a foot, and that would be a reasonable price.

By Mr. BOYD:

Q. Would it not be unreasonably high?—A. No, sir, it would not.

By Mr. FITCH:

Q. You understand that the price would then be seventy-five cents for the whole stone?—A. I understand that. I would not supply it for that price.

By Mr. TWICHELL:

Q. In your judgment, is the price reasonable or unreasonable?—A. It is a reasonable price for good material. I can get for good stock of that size a dollar a foot right at the quarry.

By Mr. FERRY:

Q. Let us take as the basis to work upon fifty-five cents a cubic foot for the superstructure, one cent per foot additional for stone over twenty cubic feet—what do you understand the price of a stone of forty cubic feet would be per foot?—A. I understand that it would be seventy-five cents per cubic foot, and that would be a reasonable price. But there is another way of measuring, adding one cent for every foot by the rule of arithmetical progression, and by that mode, by the time you get to fifty or sixty feet you would be getting all that the stone is worth.

Q. That is not the interpretation of the contract?—A. Very well; if he construes it the other way he construes it properly.

Q. And you think that the contract is favorable to the government?—A. Yes, sir, so far as the material is concerned.

Q. Then I understand you that if a block contains forty cubic feet the price of it would be forty times seventy-five?—A. Yes, sir; and the stone is worth it, too. That additional number of cubic feet would make it worth that price.

By Mr. FITCH:

Q. You say that Mr. Sheldon expressed himself to you as being satisfied with the contract?—A. Satisfied as to the foundations.

Q. And as to the trade having had a fair opportunity to compete?—A. Yes, sir.

Q. When did he express himself to you as dissatisfied?—A. For one or two or three months back; since the letting of the contract.

Q. But since you have met him here he has changed his views?—A. He has said to me all along that he had no opportunity to bid for the contract. He said that what was estimated to cost eight hundred thousand dollars he would undertake to supply for four hundred thousand dollars. Now, there has been no opportunity whatever to judge whether it would cost eight hundred thousand dollars or five or six hundred thousand dollars, or three or four hundred thousand dollars.

Q. But he tells you now that he has had an opportunity to bid?—A. Yes, on the foundations, but not on the superstructure. The contract as to the superstructure makes the other contract possible. Separate the contract for the foundations from that for the superstructure, and Mr. French would lose a large sum of money upon the first one.

Q. How with regard to the cutting of the stone? The terms of the contract are that Mr. French is to receive fifteen per cent. on the cost of the cutting, the government paying the wages of the laborers and of the foremen, all except Mr. French's superintendent, and paying the market rates.—A. It is easy for him to make the current rates.

By Mr. TWICHELL:

Q. With the men fairly hired and fairly worked at the ordinary prices, is the fifteen per cent. to the contractor an unreasonable price?—A. No, sir.

By Mr. FITCH:

Q. Is it unusual?—A. No, sir; no one of us would figure for less than 15 per cent., if we were to take the contract.

Q. Would you consent to give a lease of your quarry to the government, so that the government might go on and take out the stone in case you failed to deliver it as fast as the government wanted it?—A. O, certainly. If I make a contract in good faith, and if I fail to carry out my contract, it seems to me nothing unreasonable that the government should be permitted to take my quarry, and go on, and take out all the stone it requires. It is merely a bond to the extent of the value of the quarry for faithful performance of my own contract. I would not lease my quarry to the government or anybody else except it were to fulfill my contract. I do not see anything unreasonable in that.

By Mr. BOYD :

Q. As to the price of the stone, you mean that, if a stone measures more than twenty cubic feet, you charge the whole number of feet with the additional price?—A. Yes, sir; just as many cents as there are additional feet are to be added to the entire mass, and with that understanding it is a reasonable contract for the government. But there was measurement of the stones for the Treasury building in the way of arithmetical progression.

Q. Does not this contract go in the way of arithmetical progression?—A. No, sir; if it did, the contractor, when large stones were supplied, would get double what they were worth. I think that some of the large stones in the Treasury building, when measured in that way, amounted to as much as \$37,000. For instance, the small stones in the building were bid for at absolutely less than cost, but they went on changing the size and ordering large stones, and thereby hangs a tale. I do not know how much the contractors were eventually paid; but I believe that for those stones, which amounted by that measurement to \$35,000, the contractor finally got six or seven thousand dollars. I do not see anything out of the way in this contract, as I understand it.

By Mr. FITCH :

Q. If it were in arithmetical progression, you would think it was something out of the way?—A. Then I should like to have such a contract; I do not think I should want but one. (After again examining the contract.) I do not see how this contract can be interpreted in any other way than I have interpreted it. I do not see any chances of applying the rule of arithmetical progression.

By Mr. TWICHELL :

Q. You would not want to get out the large stone even at the price?—A. No, sir; I would rather have to take out the small ones.

Q. In large buildings like this, what proportion of stone is usually less than twenty feet?—A. In a building of this kind there will be a good many stones very far beyond that. These window-caps will, every one of them, run over twenty feet. They will measure nearly thirty cubic feet. These columns will measure fifty cubic feet and over. I do not understand myself upon that scale of prices, the whole thing being carried out fairly, where the profits come from.

By Mr. FERRY :

Q. Would it not be very essential for the contractor to know the dimensions of those stones before he could bid for them intelligently?—A. No, sir; I can tell from what I have seen of those drawings of the superstructure that there is nothing difficult to furnish.

Q. Would it not make a difference with you in fixing the price, to know something of the size of the stone, for instance, if the columns be solid or in sections?—A. Certainly.

Q. Would it not be essential for you to know the size of the stone, as your prices would be graduated according to the size?—A. Yes.

Q. You could not bid without knowing the size of the stone?—A. Not intelligently; but a contractor could guess at it.

By Mr. TWICHELL :

Q. Having seen the contract, and having seen the design for the building, what is your judgment with regard to the price of the stone?—A. I think the contractor will have to whittle his fifteen per cent. considerably, before he figures up any profit.

Q. You think the contract favorable to the government?—A. Yes, sir; I do. If it is carried out fairly, as we understand it, and with the measurement all right, I do not see why it is not favorable to the government. It is cheaper than I would take it. I would not undertake the contract at those prices.

By Mr. FITCH :

Q. Take the fifteen per cent. in connection with it, that would probably compensate for the loss upon the stone?—A. I think Mr. French will have to cut in to that fifteen per cent. If the contract should run into one or two millions of dollars, then fifteen per cent. would amount to a very large sum of money. Five per cent. commission upon the cost of that building would employ the best talent in the United States. But he has agreed to furnish stone at a price upon which he will have to impinge upon his fifteen per cent. to make himself whole.

Q. If he gets fifteen per cent. upon the whole cost of the building, he can afford to lose on the stone?—A. Yes, he may lose \$50,000 on the stone, and still not suffer; and that is the

security of this contract. The contractor has bid for the foundation at a price below cost, because his commission at fifteen per cent. on so large a contract will allow him to do so. It will take a good deal of the fifteen per cent. to make up his loss.

Q. You can afford to lose ten or fifteen thousand dollars upon the contract for supplying the first floor of the building, if you know that you can thus ingratiate yourself with the party employing you, so that he would let you have the contract for the other part of it upon better terms. You would be willing to go into the business upon that plan?—A. In other words, I would give \$25,000 for an entry fee for a contract of that kind. I would as lief give a check for the \$25,000 in the first instance, as to make a low bid, and give it in that way. In bidding, we very often do that. We will make a bid for a portion of the work at less than cost in order to get in at the rest of the work.

Q. For a building of that magnitude, cannot the very best talent of the country in the way of architecture and engineering be procured at a great deal less than fifteen per cent. upon the cost, where there is no responsibility and no outlay?—A. Oh, yes, sir.

By Mr. BOYD:

Q. A man could make money on it at five per cent.?—A. Yes, sir; the government furnishing all the money, so that a man had nothing to do but to go in and take care of the building, five per cent. would be big pay.

Q. Suppose you had got a quarry that had not been worked for a number of years, and that the government proposed to you to make such a contract as this, with the understanding that if you could not do the work you might simply surrender the quarry to the government, and that the government would pay you twenty-five cents a ton on the stone taken out, would you not regard that as a pretty good operation on your side, without any other feature in the case?—A. I think from what I know of this quarry that it will be worth five times as much after the stone for this building is taken out of it as it is now.

Q. You think that the stone taken out of that quarry now is really developing the work for the quarry?—A. Certainly, sir; and I presume that if the proposition had been made in the first place to the owners of the quarry to this effect, "Gentlemen, we cannot trade with you upon any other terms than these: we will take that quarry from you and give you nothing for the stone; but we will quarry the stone and erect that building at our own expense," I think the government would have had the privilege. That would not do for some quarries that are already developed, but only for a new, undeveloped quarry.

By Mr. FERRY:

Q. You have stated that, watching the papers for advertisements, you discovered no advertisements for this work?—A. I saw none; and still I might have been in fault in that respect.

Q. How do you reconcile with that fact your subsequent remark that you thought that all the trade had been treated with fairness?—A. Because I found that every Boston man in the trade did see the advertisement, and did know it, and figure for it—I mean as to the stone for the foundation. I do not know as to the superstructure. I do not say anything about the superstructure. I do not say that the trade did have a chance to bid for the superstructure. I do not know that it had. Mr. Sheldon says to-day that it had not.

BOSTON, *January 4, 1870.*

CHARLES W. SLACK sworn and examined.

By Mr. FERRY:

Question. State your residence and occupation.—A. I reside in Boston; I am a printer; I am at present collector of internal revenue.

Q. Do you know anything about the value of granite?—A. Not the slightest.

Q. Do you know Colonel French?—A. Very well.

Q. What do you know of his reputation?—A. He is a very smart business man.

Q. What is his general reputation for integrity?—A. I have no knowledge of my own in regard to his integrity in mercantile transactions. If you ask me what his credit would be in town, I should say somewhat impaired, from the fact that he failed some years ago as a distiller, and under circumstances, according to common rumor, which would make many men cautious in trusting him again. He carried down an importing house under circumstances which made the members very angry. But at present I have no knowledge of his reputation as a business man.

Q. What do you understand his reputation to be morally in the community, for integrity, as you gather it from the public estimate?—A. In a word, I should say that he was a sharp man; and that if you were going to have dealings with him, you should have your wits about you.

Q. Would you leave anything to his uprightness and moral integrity?—A. I should prefer to have any transaction in writing. I think he would do what he agreed to do, provided the understanding were clear and precise.

Q. Would you, in a matter of great importance, leave anything to his discretion based upon his moral integrity, in a matter involving his own pecuniary interest and that of his

friends?—A. Yes; I think I would. He has a great deal of that sentiment which is called honor among that class of men. I think that, if a person dealing with him were a particular friend or an acquaintance and should say to him "I want this done upon honor," I think he would do it literally. But at the same time, when I say that I think he is a man who is shrewd, and penetrating, and sagacious, and sharp in his business transactions, he means to make a good thing of what he undertakes. I do not think his credit is ruined by any means by his failure. I think he can get all the credit he wants in Boston.

Q. The government having purchased stone of him, as the agent of his company, and there being a certain amount of royalty depending upon the amount of the wages for hammering the stone, would you believe that he would connive with the person keeping the account of time and the value of those wages, in order to secure a greater royalty to himself?—A. I think he would bear watching. I think I should have a good superintendent, disinterested, to go over the figures or to do the figuring of so many square feet at such a price. I should not trust it entirely to his own discretion.

Q. Would you trust him to make an appointment of the person whose duty it should be to keep account of the time as the basis of the value of the royalty coming to him?—A. No, sir; I would let him do it for his own side; but I should want the government to have its own agent independent of Mr. French, entirely above his control, and beyond his influence.

Q. Do you know anything about the cause for which his distillery was seized by the government?—A. No, sir; that thing occurred before my official term. It occurred some time last August.

Q. Do you know anything about the merits or demerits of the case?—A. Only that his distillery was seized by Commissioner Rollins, who was in Boston at that time, and a thorough overhauling took place. Then there was a long contest in relation to what he should pay as capacity tax. The amount which he claimed that the government had overtaxed him was nearly nine thousand dollars. He declined to pay the assessments which have accrued since that period, a part of which were due when I came into the office, making the whole amount unpaid, including what he contested, about thirty thousand dollars.

By Mr. FITCH:

Q. Upon final determination, was his position sustained?—A. It has been recently determined that he had a rightful claim to the nine thousand dollars, and I have an order from the department for that amount. He told me that he proposed to pay me the balance immediately. He has already deposited ten thousand dollars in my hands, and has told me that I shall have the rest to-day or to-morrow. I think he will do what he agrees to.

By Mr. TWICHELL:

Q. I understood you to say that you would not trust him to measure the stone?—A. No; I should want the government to have an agent of its own entirely independent of him.

Q. Do you consider the superintendent, Mr. Bryant, a suitable man to stand between him and the government?—A. I think Mr. Bryant is entirely competent to discharge any trust connected with the building of the post office.

Q. Not only competent but perfectly reliable?—A. So far as I know, he is.

By Mr. BOYD:

Q. You have given us to understand that Mr. French being a contractor for the supply of granite to the government, it would not be advisable to permit him to keep the accounts between himself and the government. Do you mean by that that there is no man in Boston whom you would permit to do that?—A. I did not mean to answer in that sense. I mean that the government should have a representative independent of him.

Q. Then there are men in Boston whom you would trust in that respect?—A. Yes, sir; I think there are men whom I would trust implicitly.

By Mr. TWICHELL:

Q. You would not recommend the government to contract with any man, and to leave him to keep all the accounts?—A. No, sir; I think the government should be protected against possible fraud.

Q. Regardless of who the contractor is?—A. Yes, sir; that is what I mean in broad sense. The government should have its own agent independent of the contractor.

Q. And, if the government has such an agent in this case, you think Mr. French will pursue a course that will be just and proper, so far as the government is concerned?—A. I should think so.

By Mr. FERRY:

Q. Did you open the bids for granite?—A. Yes, sir.

Q. Was Mr. French's bid the lowest?—A. Yes, sir. Mr. Bryant brought the bids to me, with the request that I should open them. I did open them, certifying upon each one that it was opened in my presence. I think that there were six or seven bids for the granite. The price per cubic foot was given and the aggregate was carried out, and, glancing at them

casually as I opened them, I took in the fact that Mr. French's bid was the lowest. That was the bid for the basement only, not for the superstructure. After they were opened, and Mr. Whittle made a sketch of the bids, a comparison of the other bids verified my observation that his was the lowest, by perhaps one or two thousand dollars.

Q. Did you take into consideration the royalty, and the bankage, and wharfage?—A. I suppose that was all embraced in the bids. I think it was all lotted up and the sum total of the bids put at the bottom. I was satisfied that his was the lowest bid, and that was confirmed afterwards by Mr. Whittle's schedule.

BOSTON, *January 4, 1870.*

WILLIAM RAYMOND LEE sworn and examined.

By Mr. FERRY:

Question. State your residence and occupation.—Answer. I reside in Boston; my profession is that of a civil engineer; I am United States assessor for the third collection district of Massachusetts.

Q. Do you know anything about the value of granite in this vicinity?—A. Yes; I have made a great many purchases of granite and other stone materials in my life.

Q. Are you interested in any way in any granite quarry?—A. No, sir; I never was.

Q. You have then no interest in the purchase or sale of granite?—A. Not the slightest.

Q. Give us your idea of the value of such granite as is used in the new post office?—A. I cannot say the price of granite at this time, as I have been otherwise occupied since 1861. During the war I was absent. I am unable to give even an approximate market price for granite at this time. I have no idea how much it would be by cubic feet or by surface feet.

Q. Are you a judge of the quality of granite?—A. I believe I am.

Q. Have you noticed the granite that is being used for the new post office building?—A. No, sir; I have not visited that locality since the trenches were made. Understanding that that is the Gloucester granite, I know from examination some years ago that it is pure granite, that mica predominates in it, and that it is distinguished in the usual way from sienite, which is of the same family of stone.

Q. Are you conversant with the custom of quarries as to the additional price for granite over a certain size—so much per foot?—A. I know that such a practice prevails; that is, that the price varies with the size of the blocks and also with the dressing. It depends entirely upon the size and the style of dressing what the price is. The large blocks should cost more in proportion than the small ones.

Q. The contract is that fifty-five cents shall be allowed per cubic foot of all stone the quarried dimensions of which do not exceed twenty cubic feet in each stone, and one cent additional for every cubic foot of those having dimensions exceeding twenty cubic feet. What is your view as to the price of stones that are over twenty cubic feet, based upon your knowledge of the custom of quarrymen? What would be the price of a stone of forty cubic feet where the original price is thirty-nine cents for a stone under twenty cubic feet?—A. If the price were thirty-nine cents on stone under twenty cubic feet, and if the stone were one foot in excess of that, the price would be forty cents for that cubic foot and thirty-nine cents for the rest. (Reading the contract again.) The word "every," I think, controls the matter. It would read as though it were intended that the whole stone should be charged the additional one cent. If the stone were forty cubic feet, the price would be fifty-six cents a cubic foot for the whole contents.

Q. Then you do not construe the contract as requiring an addition of one cent in the price for each foot over twenty feet?—A. No, sir. The word "every" controls it. I should not make such a contract.

Then you mean to say that if the stone contained twenty-one cubic feet the price of the whole would be fifty-six cents per foot, and that if it contained forty cubic feet the price of the whole would be fifty-six cents per foot?—A. Yes, sir.

Q. What is the custom in that respect?—A. I never made a contract of that kind. I have made contracts discriminating between large and small size stones, but my custom has always been to take given dimensions of stones and charge so much a cubic foot. For instance, a stone between ten and fifteen cubic feet would be one price, and a stone between fifteen and twenty cubic feet would be another price, because the larger the stone the cheaper it is to get out, and therefore the increased price should be in a less ratio according to the larger dimensions of the stone.

Q. Have you a recollection of about the rate of increase that you made?—A. No, sir. It would depend entirely upon the distance of the quarry and whether the stone was to be worked up or to be simple material. Sometimes contracts are made to furnish the materials and to lay them up. As far as the laying them up is concerned the price remains constant, because it does not affect the cost much whether the stones are large or small. The large stones are more easily laid than the small ones, so that in the aggregate the mere manual labor is much diminished, as machinery is used for all large stones.

By Mr. BOYD:

Q. You think that this contract, as it reads now, is more in the interest of the seller of the

stone than of the purchaser?—A. Undoubtedly. He gets an additional price of one cent a foot because the dimensions of the stone have been increased.

Q. And, if all the stones should be over twenty cubic feet, the additional price would have to be paid for the whole stone?—A. So I read that contract.

By Mr. FERRY:

Q. Do you understand that to be the custom?—A. No, sir. I never read a contract of that kind before.

Q. Your custom has been to fix a definite price of the rate of increase, but not in proportion to the increase of size?—A. Not in proportion to the increase of size.

Q. Are you familiar with the custom of paying a percentage to the contractor upon the whole cost of the work, as a remuneration for his services?—A. Yes, sir; that custom prevails quite extensively in this community. An architect is paid by commissions rather than per diem. That is very common indeed.

Q. Have you ever heard before of a commission being paid upon the hammering of the stone?—A. No, sir; I never heard of such a thing. I have always employed men by the day to superintend that branch of the work. For instance, I was one of the engineers to build a viaduct which cost one hundred and six thousand dollars. I employed a man to superintend everything connected with that structure after the stones were delivered on the ground from the quarry. He was to reject such stones as were not suitable, to see that they were dressed properly, and that the masonry was laid up in a proper, substantial manner. For this he received a per diem.

Q. From your knowledge of the labor in preparing stone, can you give an intelligent judgment in relation to the value of commissions?—A. No, sir; I cannot.

By Mr. TWICHELL:

Q. You have seen the Sandy Bay granite and can judge whether it is of good or poor quality?—A. I made a personal examination of that Cape Ann granite some years ago, and I believe I examined all the quarries in that vicinity more or less within the last forty years. I am perfectly familiar with the stone which comes from those quarries. It is pure granite. Mica predominates. There is very little feldspar in it. It is really pure granite and is distinguished from the Quincy stone by the fact that in the Quincy stone feldspar is apparent.

Q. Do you know any better granite?—A. I think that perhaps in New Hampshire I have seen some stone harder and a little darker in color than the Cape Ann stone.

Q. Is it better for being darker?—A. I think the density is a little more. It is more compact and weighs more to the cubic foot. This stone is free from stain. There is no sulphurate of iron in it.

Q. Can you say, from this plan of the proposed building, what proportion of stones in that building would be more than twenty cubic feet?—A. I cannot tell. It would be impossible for any man to tell without sitting down and computing it, and that would take time.

Q. From your experience, are you able to state whether this contract for the stone, from what you have read or seen of it, is a favorable contract?—A. I cannot tell because I am not familiar with the present price of granite. It is a matter which I have not given any attention to since 1860.

By Mr. FERRY:

Q. Do you know Jonas H. French?—A. Yes; I know him in business.

Q. Do you know his reputation in the community?—A. Yes.

Q. What is his reputation as a business man and as a man of integrity?—A. I should say he is a very enterprising business man; and so far as his integrity goes I have no question about it. I have no knowledge or suspicion of any transaction that would impugn his personal character.

Q. I speak of his character socially and morally in the community.—A. I know nothing of Colonel French except in my business connections with him. I never heard a word said against his moral or personal reputation.

Q. Have you any knowledge of any difficulty between him and the government concerning his business?—A. Yes; I think in 1867 his distillery was seized for an infraction of the United States internal revenue laws, and I understand he was obliged to pay a good deal of money to clear himself from the penalties which the law inflicts on such acts.

Q. A breach of the revenue laws?—A. Yes, sir; that is the story as it came to me.

Q. You know the fact that his establishment was seized?—A. I was not present, but I have no doubt of it. The case is of record in the courts.

Q. Is he now prosecuting the same business?—A. Yes; he has been a distiller since November, 1868.

Q. Is it known that that is his principal business?—A. Yes, sir; that is his only business, that I know of. He has always been a distiller. His father was in the business before him.

Q. Have you known him as having any reputation as a quarrier or granite seller?—A. I never heard of any business transactions of his connected with anything except distilling.

Q. If you, as an engineer, had a building of this character to put up, would you place the superintendence of that building in the hands of such a man as Colonel French?—A. Not with my present knowledge of his experience.

Q. With your knowledge of his standing as a man?—A. Yes, sir; I should not have any question on that score. It would be simply a question as to his knowledge and experience in the business.

Q. You think he has not sufficient experience to warrant his being so employed?—A. I don't know that he has any.

Q. Then, with your knowledge of the man in that respect, you would not be willing to appoint him as superintendent of such a work?—A. I should not, any more than I should undertake distilling myself.

By Mr. TWICHELL:

Q. Do you know Mr. Bryant?—A. Yes; for a great many years.

Q. Would you regard him as a suitable superintendent?—A. Yes; Mr. Bryant is the first builder in the community. He is a man in whom everybody has confidence, both as to his character and skill. I speak very confidently in regard to Mr. Bryant, because my personal and professional knowledge of the man is very complete.

Q. He could not be deceived in regard to the quality or quantity or workmanship of anything of that kind?—A. No, sir; you could not blind him.

Q. Nor bribe him?—A. Nor bribe him.

Q. In your relations as assessor of this district with Colonel French, have you had any difficulties at all?—A. No, sir; we have had no difficulties at all. He has objected very strongly to my assessments against him upon distilled spirits for deficiencies and per diem.

Q. In that case what do you do?—A. I put the assessments upon a list and they go to the collector, and the collector demands the money for them. If they are not paid, the usual course is to put them into court for prosecution. Mr. French filed an abatement claim against my assessments. The abatement claims went to Washington and were argued before the Solicitor of the Internal Revenue Department, and they have been allowed by the government within a very short time. My assessments in that case were made under special instructions, and the department has simply revoked its instructions. Mr. French pays to the government, in taxes, about \$350,000 a year. The abatement that he asked for was \$8,500 out of \$350,000. The question he raised was before the department, and the Solicitor decided it upon the question of law as to whether it was a legal assessment.

By Mr. TYNER:

Q. In speaking of Colonel French's character, you have spoken from your personal knowledge, and not from general reputation?—A. I only speak of him as I know him. The fact is I never knew Colonel French until he resumed work in his distillery. I had seen him and perhaps spoken to him once or twice.

Q. You do not speak of his general reputation, but of your own knowledge of the man?—A. I speak of my own knowledge of the man. I think it due to him and to myself to say that, so far as his general reputation is concerned, I never heard anything adverse to Colonel French's character.

WASHINGTON, January 18, 1870.

BARTHOLOMEW OERTLEY sworn and examined.

By the CHAIRMAN:

Question. What is your business?—Answer. Professional architect and engineer.

Q. What is your residence?—A. I have resided at Albany, New York, for the last year.

Q. What has been your employment?—A. I have been connected with the New York State capitol, and also engaged in the development of a patent of my own.

Q. Are you still employed upon the capitol?—A. That depends upon the action of the present legislature.

Q. Before you were employed at Albany, where were you employed?—A. Some of the time I was entirely engaged on my patent. Before October, 1868, I was employed in the Treasury Department here.

Q. For how long a time previous to October, 1868?—A. For thirteen years. I was engaged in 1855 as computer of the department, by Major Bowman, then in charge of the Treasury extension. Shortly after that I was appointed sworn measurer of the contract work. In 1865 I was appointed assistant supervising architect.

Q. By whom?—A. By the Secretary of the Treasury.

Q. State upon what works you were employed while in the Treasury Department, as computer or architect.—A. If I were asked upon which of the works I was *not* employed, I could give a better answer. I was employed more or less on all of them.

Q. Are you an architect?—A. I am.

Q. Did you, as computer, make an estimate of the cost of the construction of the building for the post office and courts in New York City, according to the plans of the five architects?—A. Yes, sir. These specifications, signed by five architects, were submitted to the office, and I made estimates on them.

Q. The drawings now before you are the ones you refer to?—A. Yes, sir.

Q. Were those estimates carefully prepared by you, and were they, or were they not, accurate, according to the best means you had of preparing them?—A. They were as accurate as the plans would admit. The plans were only a mere sketch of the outlines of the specifications.

Q. Did you make an estimate for the building called the Gardner Building, as testified by Mr. Mullett?—A. I did not. The estimate in the case of the New York post office building was based entirely upon the designs of the five architects.

Q. State whether you made the estimates sent to Congress with the letter of the Secretary of the Treasury, signed by Mr. Mullett.—A. Yes, sir; I made all three. The first was the estimate of the plans of the architects, including their specifications. In that estimate I had to use some of the items which the architects themselves had prepared, constituting really their own estimates. The office then recommended a change in the interior work, partly to get a more mechanical construction, and partly to get a cheaper construction and to use less iron. For that estimate we assumed the same rates as the architects had given for the granite or marble building. These are the estimates which I now have before me. I made all three of the estimates.

Q. It is charged by Mr. Mullett that you deceived him in making those estimates. Did you so deceive him?—A. If I did, I certainly did not do it willfully.

Q. I wish you to state to the committee whether there is any truth in this charge?—A. I have been looking over the estimates again, and I find an error in the price of the common masonry. We assumed for that the price then being paid. Since that time the price has been considerably increased. I refer to the price of labor and of the stock for the common masonry.

Q. Is it true, as charged by Mr. Mullett, that you deceived him in making your computations?—A. It is not so.

Q. And he charges that you did it intentionally?—A. That is a falsehood.

Q. Were those computations honestly made, and as correctly as they could be made under the circumstances?—A. They were.

Q. Do you think that your computation of quantities was accurate?—A. As accurate as the plans would permit.

Q. Did you attempt to mislead Mr. Mullett?—A. I certainly did not intend to, in any manner.

Q. Are you the same Mr. Oertley who was employed as computer and measurer upon the extension of the Treasury some eight or ten years ago?—A. Yes, sir; I was the first sworn measurer, and retained the place until I resigned. If you will allow me to make a statement, you will find that in the estimate which I prepared for the New York post office building, based upon the plans of the five architects, they coincide very nearly with the estimates of the architects themselves, there being only a few thousand dollars difference. Certainly that fact shows that I had not the slightest intention to mislead the office or Mr. Mullett.

Q. Is there any difficulty in calculating to a reasonable certainty, from the plans and specifications, what a building is going to cost?—A. In making estimates, there are two items that form the bases of calculations. The one is the quantities. These we can arrive at, if we have accurate plans, almost with mathematical exactness. The second item is that of prices of material and labor. In relation to these it is not so easy to make an accurate estimate of prices. The circumstances which control and vary them are so multifarious that any close estimate is always a very difficult matter. It is always my aim to arrive at the price as nearly as I possibly can.

Q. Is there any difficulty in arriving at a reasonable certainty in such a case, for instance, as that of the post office in New York? Can an architect come within less than half a million of dollars of what such a building is going to cost?—A. Yes, sir, within less than half a million of dollars.

Q. Within what amount, if he understands his business?—A. I should say there ought not to be, at the most, more than twenty or twenty-five per cent. variation from the actual cost.

Q. Is not fifteen per cent. usually considered a sufficiently liberal estimate to cover deficiencies?—A. To cover *contingencies*, yes. That is generally considered a fair margin.

Q. I believe you add fifteen per cent. to your estimates to cover contingencies?—A. Yes, sir, about that amount.

Q. Something has been said in reference to the purchase of looking-glasses for the extension of the Treasury—the rooms that are occupied by the Internal Revenue Bureau; who is responsible for that purchase?—A. I am charged with the responsibility of furnishing that furniture.

Q. Charged by whom?—A. If you will permit me to make a statement, I will explain to you fully all there is about it. In August, or the latter part of July, 1868, Mr. Mullett brought to me a gentleman by the name of Willard, of New York, a dealer in looking-glasses and furniture in general; he made the remark with me that Willard proposed to furnish the north wing of the Treasury with mirrors, cornices, &c., and requested me to give Mr. Willard all the assistance I could; I told him I would do so, but at the same time remarked that the funds at the disposal of the architect's office for that purpose had been entirely exhausted, and I did not see very well how he could order the mirrors; Mr. Mullett

said there were funds at the disposal of Mr. McCartee, the superintendent of the building, that could be used for that purpose; I think I asked Mr. McCartee if that was the case, and that he replied he had some funds that could be used for that purpose; I think I then furnished Mr. Willard with copies of the measurement of the floor and memoranda of the height of the stories, &c.; I also went with Mr. Willard and measured, in cases where there was any doubt as to an inch or an inch and a half of the place where the mirrors should be placed; I do not think I had any authority in the matter; my action was merely advisory; I ordered nothing; I did not prepare the bill for the furniture nor did I sign it; I am ready to state, however, that the prices of those mirrors and partitions were less than those of most of the other furniture placed in the building; there were six mirrors which I desired very much should go into the marble room in place of the black marble slabs; the order for them, however, was countermanded and they were not furnished.

By Mr. HILL:

Q. Did Mr. Willard furnish those looking-glasses?—A. He did; I left, however, a considerable time before any of the things were delivered; I think they were delivered in the winter of 1869; I left in the fall of 1868.

Q. Have they not a room in the Treasury Department for making furniture?—A. Yes, sir; there has been a cabinet shop attached to the Treasury Department for six or seven years.

By the CHAIRMAN:

Q. Who originated that?—A. I think it was started under Mr. Rogers; it is a very extensive establishment.

Q. Is there a photographic establishment in connection with the office of the Supervising Architect?—A. Yes, sir; there is.

Q. Were you employed in that department when Mr. Mullett first came?—A. I was.

Q. At what time did he come?—A. In 1863.

Q. In what capacity?—A. First as clerk.

Q. In what bureau?—A. I have forgotten.

Q. Was it in the architect's department?—A. I think he first came into some other bureau—the Register's office, if I am not mistaken; then, while Mr. Rogers was Supervising Architect, he came into the architect's office.

Q. Was he an architect by profession?—A. I suppose so; I do not know where he studied.

By Mr. TWICHELL:

Q. I want to ask you if you prepared the schedule for those mirrors as they were wanted in the department?—A. No, sir; I prepared no schedule; I suppose, however, it was prepared for the places which I had marked on the plans for mirrors and partitions.

Q. Did you sign any schedule?—A. No, sir; I did not prepare or sign any; I did not think that belonged to me.

Q. Did you recommend it?—A. I recommended the places; as I have before said, however, I think the furniture furnished was as cheap or cheaper than any other furnished for the building.

Q. You aided Mr. Willard?—A. Yes, sir; I had instructions to do so from Mr. Mullett himself; he told me I was to assist Mr. Willard.

Q. And the assistance you rendered was in the absence of Mr. Mullett?—A. Mr. Mullett was absent then a great deal of his time.

Q. Did you ever receive anything from Mr. Willard?—A. I did; I owned some fifteen hundred grape vines, and having one which I considered particularly adapted to our climate, I gave Mr. Willard half a dozen of the vines; afterwards he asked me if he would be allowed to make me a present of a picture in return; I told him I didn't care if he did; then he sent me a chromo of the French cathedral.

Q. Was that all?—A. That was all.

Q. What did those looking-glasses cost?—A. It was not entirely looking-glasses that was furnished, there were cornices and partitions; I think the total amount was something over \$20,000.

Q. What Willard was this?—A. I think his name was George Willard; his place of business was 269 Canal street, New York.

By Mr. TWICHELL:

Q. You never received anything from Mr. Willard except the picture you speak of?—A. No, sir.

Q. Did anybody except yourself and Mr. McCartee, the superintendent of the building, have anything to do with those mirrors?—A. I think that the bill, before it was given out, was submitted to the assistant secretary, and also to Mr. West, the chief clerk of the department.

Q. In settling upon the place where the mirrors and furniture were to be put, had anybody anything to do with the matter except yourself and Mr. McCartee?—A. I think not.

By the CHAIRMAN :

Q. What do you mean by saying now that nobody but yourself and Mr. McCartee had anything to do with it? A few moments ago you said that Mr. Mullett directed you to assist Mr. Willard.—A. So he did; I never should have touched the matter if he had not.

By Mr. TWICHELL :

Q. Did you consider yourself ordered by Mr. Mullett to measure anything for Mr. Willard?—A. Mr. Mullett directed me to assist Mr. Willard and furnish him any plans or anything else he wanted.

Q. Were you to prepare the plans for Mr. Willard?—A. Yes, sir, of course; there would not have been any plans unless I had prepared them.

Q. Did you ever assist any other contractor for the government? Did you ever go out from the office and render assistance to contractors?—A. It was a very customary and usual thing to do so; when contractors furnished anything for the government, of course we furnished plans for them.

Q. Was that done for the contractors or for the government?—A. Of course, I regarded it as being for the government; it was a very ordinary thing—a kind of assistance which we always rendered to any contractors.

Q. What did Mr. Mullett say to you upon which you based your action in regard to Mr. Willard?—A. He brought Mr. Willard to me and told me he was to furnish furniture for the north wing, and then requested me to assist him in any way I could.

By Mr. BOYD :

Q. Had you ever seen Mr. Willard before?—A. I think I had seen him once.

Q. Did you ever talk with him about looking-glasses before?—A. No, sir.

By Mr. TYNER :

Q. Did you submit your plans and estimates to Mr. Mullett before they were delivered?—A. No, sir; they were submitted to Mr. McCartee; I think Mr. Mullett was not in town at the time; I think Mr. McCartee did whatever was done in the matter; I did not consider myself as having any business with it at all.

By Mr. TWICHELL :

Q. Did Mr. Mullett, to your knowledge, have anything to do with the matter in any form except to introduce Mr. Willard to you, saying to him in your presence what you have already stated?—A. I do not think he did, while I was there.

By the CHAIRMAN :

Q. What he did before or afterwards, of course you know nothing about?—A. No, sir.

By Mr. TWICHELL :

Q. You say that while you were in the employ of the government, you made measurements for, and otherwise rendered assistance to, contractors?—A. Invariably I did. We always considered it the work of the office to make the measurements.

Q. The work of the office to assist the contractors?—A. Yes, sir.

By the CHAIRMAN :

Q. What do you mean by assisting the contractors?—A. Simply to correct measurements.

Q. Was that done on your own motion or by direction of your superior officer?—A. Sometimes by his direction, but as a general thing we considered it a part of our duty.

By Mr. TWICHELL :

Q. Did you know Mr. Gibbons, who was contractor for the Agricultural Building?—A. I did not know him at that time.

Q. While discharging his duties as contractor for the Agricultural Building, did you know him?—A. No, sir; I became acquainted with him after the building was completed.

Q. Did you go over to do any work for him?—A. Not while the building was in progress. After it was finished, he asked me to make an estimate of the work done for the government.

Q. And you assisted him?—A. I did.

By the CHAIRMAN :

Q. Did you do that for him or for the government?—A. That was a private matter altogether. I did it on private time.

By Mr. TWICHELL :

Q. You did it on Sunday, did you not?—A. Once I did.

Q. And he paid you for it?—A. He promised to pay me; I do not think he has ever paid me.

By the CHAIRMAN :

Q. That was not a building erected by the Treasury Department, was it?—A. No, sir, it was not.

By Mr. TWICHELL :

Q. But it was done by the government, was it not?—A. Yes, sir; by the Interior Department, or Department of Agriculture. We, in our department, had nothing to do with it.

By Mr. TWICHELL :

Q. To turn back to New York. Did you go to New York to obtain the necessary data upon which to make your estimates?—A. No, sir, I did not. The whole matter was got up in such a great hurry that there was no time for that. Besides, that would have required the authority of the Secretary.

Q. Then your estimates were made in great haste?—A. Yes, sir.

Q. And made up from mere sketches?—A. They were made from those plans of the five architects.

Q. Can you, as an architect, make a reliable estimate from sketches like that, without having even skeleton working plans?—A. Yes; I think I can, provided I know the character of the work; for instance, if the buildings which the government contemplates erecting are to be of the fire-proof class, we can tell with great certainty the cost, calculating it by the cubic foot.

Q. Did you make up these estimates in that form, by the cubic foot?—A. Yes, sir; I did, afterwards, to verify my other estimate by the comparison of the two. The original estimate was made in detail.

Q. Where are the figures that were made for the detailed estimates?—A. I think I have them somewhere.

Q. Did you leave them in the office?—A. I have a great number of figures yet in my scrap-book.

Q. Are those calculations in the office, or in your private possession?—A. In my own possession; there was nothing of it but scraps and figuring.

Q. And the figuring you took out of the office?—A. There was no need of leaving the scraps, for the estimates were copied clean.

Q. Can you tell the committee, in all the estimates you have made of buildings that have been placed under contract by the government, of one the cost of which did not exceed your estimate?—A. I should have to refer to my files for that. I know a number of contracts were made under my estimates. In fact, my estimates were about the average of the proposals received. Of course, for the final completion there would be extra expenses for pavements, inclosures, &c., but for these you could not hold the estimate responsible.

Q. Did you make an estimate for the building at Buffalo?—A. I think I did. That was a very early building. The contract was made, if not before, very soon after I entered the office.

Q. Before Mr. Mullett came there?—A. Yes, sir, long before. I think there was a Richmond building that was taken at a less figure than my estimate.

Q. Was it built for less?—A. No, changes were made in it afterwards; but I think it would hardly be fair to hold the estimates responsible for that.

Q. Do you know what the contractor's price for the Buffalo custom-house was?—A. About \$117,000, I think; the total cost was about \$130,000, including several extras. An allowance was afterwards made by the Court of Claims, which was a totally different matter.

Q. Including that, the total cost was \$190,000, was it not?—A. Yes, sir; that was based on the requirement of the superintendent to lay the stones on the quarry bed.

Q. How about the building at Detroit?—A. That building was originally contracted for, but was afterwards built by day's work, by the government, and exceeded the estimates very considerably, as buildings generally will do when carried on by day's work; the aggregate cost was about \$214,000, but the contract price was \$103,000; and my estimate, I believe, was for \$107,000. The contract, however, was thrown up, and the government finished the building, as I have said.

Q. How about the building at Milwaukee?—A. That is a very fair specimen. If I remember rightly, the final cost of that building came inside of or very nearly with my estimates.

Q. Was not the contractor's price \$130,000 and the cost \$160,000?—A. The total cost of the building, as estimated by me, was, I think, about \$125,000. A change was afterwards made involving a large additional cost.

Q. How about the building at New Haven?—A. I should say very nearly the same in regard to the New Haven building. I think the original figures of the estimate correspond very nearly with the amount the contractors received at the time. Afterward a good many changes were made.

Q. Can you give the contract price for the building?—A. It was somewhere in the neighborhood of \$108,000. That was built so long ago that I cannot speak with certainty without referring to my memoranda.

Q. How about the building at Newark, New Jersey?—A. Very nearly the same in regard to that.

Q. Did not the cost largely exceed the contract price?—A. I think the contract price was under my estimate, but the final cost of the building exceeded it.

Q. How in relation to the building at Oswego, New York?—A. I will have to say, in reference to that, about the same as I did about the Buffalo building. Adding the allowance of the Court of Claims, the cost very largely exceeded my estimate.

Q. How in relation to the building at Cleveland?—A. There was only \$5,000 between my estimate and the contract price for that building.

Q. Was not the contract price \$83,500, and the cost \$138,000?—A. I think the contractor received only \$89,000 or \$90,000; the balance was entirely foreign to the original contract.

Q. In what respect?—A. For changes and for an inclosure to grounds.

Q. This was before Mr. Mullett's day?—A. Yes, sir.

Q. Now, with all the information you have, can you think of a single building you have estimated for, from the time you entered the office until you left it, the cost of which did not exceed your estimate?—A. If you will allow me to refer to my memoranda I can answer your question definitely.

Q. You are not very friendly to Mr. Mullett, are you?—A. I am not, now.

By Mr. BOYD:

Q. Why is it that you and Mr. Mullett are not friendly?—A. Because I disagreed with his system of working.

Q. What is the matter with his system?—A. I do not believe in the day's work system.

Q. What is your opinion of an architect who cannot tell within five hundred thousand dollars of what a building should cost?—A. Architects proper, as a general thing, are very poor estimators. The estimates, however, ought to come within less than that, provided the plans and specifications are completed; but if after a building is commenced you make changes every day, there is no use in making any estimate at all.

Q. Did you leave Mr. Mullett's office, or were you discharged?—A. I was removed as sworn measurer. When I resigned, in October, 1868, I resigned as assistant supervising architect. They then made the technical point that I was still sworn measurer in the treasury extension, although I never had received a copper's pay for that part of my duty. In March, 1869, to my very great astonishment, I read in the newspapers that I had been removed as sworn measurer of the Treasury Department. I had supposed myself out of that office a great while before.

By Mr. TWICHELL:

Q. Was it in March, or April, that you were removed by Secretary Boutwell?—A. I think it was in March.

By Mr. HILL:

Q. Is it customary to alter the plans of a building after the estimates are made?—A. As a general thing the plans were pretty well adhered to. Instances are frequent, however, where documents are got up by citizens desirous of a change, or by members of Congress who desire a change, and the change would generally be made accordingly.

By Mr. TWICHELL:

Q. If a change is made in a contract and specifications, would not the government then find itself completely in the hands of the contractor?—A. As a general thing, it would. At the same time I think the day's work system is universally more expensive than the contract system. If the government sometimes lost under the contract system, the loss was small in comparison with the cost of doing the work by day's work.

Q. You have been endeavoring to get Mr. Mullett removed?—A. I once recommended a man who was an aspirant for the office, and signed his petition.

Q. You have, by the letters you have written, and by your acts, tried to secure Mr. Mullett's removal?—A. In that way, yes.

By Mr. BOYD:

Q. From what you know of Mr. Mullett, do you, or do you not, think that he ought to be removed?—A. I think his *system* ought to be removed. I don't know about the man. I certainly don't aspire to the office.

By Mr. TYNER:

Q. Of these last buildings, in regard to which you have been examined, what ones have been built precisely according to the original plans, without any extras or changes?—A. I do not remember any which had, strictly speaking, no extras; several had but very slight changes. In the Cleveland custom-house, for instance, the changes were really very small.

Q. In what buildings were the original plans changed?—A. In the Chicago custom-house the building was extended three times.

Q. Was that the only one?—A. The only one changed to so great an extent; the others had smaller changes.

By Mr. TWICHELL:

Q. Did you measure the height of the space in the north wing of the Treasury building?—

A. I think I did.

Q. Did you make any mistake in the measurement?—A. I do not think any voucher was paid on my measurement.

Q. Did the measurement you gave the contractor entitle him to more than was due him?—

A. Not that I know of; I do not think my measurement was used. I was not in the employ of the government when the contract was completed.

Q. Were you when the measurement was made?—A. I do not think I was, even then. I think Mr. Steinmetz, who signed the voucher, made the final measurement.

Q. Do you know whether it agreed with yours?—A. I do not know. I was rarely at the office then, and now rarely go there at all. I do not suppose the difference could have been very great.

Q. Did Mr. Mullett ever give you any reason why you were removed?—A. No, sir.

Q. Never told you that you were removed because you were incompetent as a measurer?—

A. He never gave me any reason at all. When I resigned as assistant supervising architect, I considered myself as having resigned all the position I had in connection with the department.

Q. What per cent. has been lost to the government by carrying out Mr. Mullett's system, in comparison with the contract system?—A. If you will allow me to refer you to a report made to the House of Representatives, second session of the thirty-seventh Congress, you will find the points bearing upon this question well set forth; and I think it will convince you all that the system of day's work is not at all conducive to economy. The report referred to was made by a committee of the House of Representatives.

Q. You say you and Mr. Mullett are not friendly. Is Mr. Mullett unfriendly to you; and if so, what is the occasion of his unfriendliness?—A. I am told that he talks very bitterly about me.

By Mr. TWICHELL:

Q. And if he is told that you talk bitterly about him, is he not correct?—A. I do not know that I talk bitterly about him; I do about his plans and system of operations.

Q. Then the feeling you have is not against him but against his system of management?—A. That is all.

Q. Is there more chance to steal from the government under his system than under yours?—A. What is the difference whether you steal or the government loses it? The result to the government is the same. The government invariably has five foremen where the contractor has one; and the tendency on the part of the foremen, laborers, mechanics, and even superintendents, is to draw out the work for an indefinite period. In the contract system there is a check on the contractor and the architect. The contractor is obliged to supervise his own contract, unless you require him to do a large number of extras; while, under the days' work system, almost any number of blunders may be committed and government never know anything about it.

By Mr. HILL:

Q. Have you seen the estimate made by the San Francisco mint?—A. No, sir. I think the plans were prepared after I left the office.

By Mr. BOYD:

Q. Did Mr. Mullett ever charge you, in your presence or to your face, with making false computations?—A. He never did.

JANUARY 20, 1869.

GENERAL: In answer to your question, whether I knew of a contract, similar in terms and operation to that for furnishing the cutting of the granite for the New York post office and heretofore made by the department, I would say that a clause in the contract for furnishing the marble-work for the Charleston custom-house was identical with the New York post office contract, and was used as the basis in the measurement of the major part of the marble-work. I would respectfully refer you to the report made by the Hon. A. Sargent, (California,) in 1862, (37th Congress, 2d session, Report 137,) and to one passage of the same, showing that under that contract the cost of the marble column capitals amounted to \$5,700 per capital, whereas the same capitals, and of rather larger size, for the United States Capitol was from \$1,000 to \$1,200, or very nearly only one-fifth of the former, and certainly, to all intents and purposes, as good and effective as those furnished under that notorious contract.

I stated to the committee that I deprecated the system advocated by Mr. Mullett; and, against his assertion that contract work was much more expensive than that done under his system, I would respectively submit the few facts embraced in the table No. 1, herewith inclosed, the figures of which can be at any time verified at the Register's file room, Treasury Department. It will appear from it that the average increase of costs and payments made to contractors was less than ten per cent. additional to the original contracts.

You will also find that the total cost of the Baltimore court-house, as settled under the contract, was less than my estimate for the work, viz: contract, \$112,808; final settlement of contract, and all extras under the terms of contract, \$118,075 07; my estimate, made before letting the work, \$131,000. It will not avail to set against this an allowance subsequently made by the department, on account of the fact that, in consequence of the default of the department, the work had to be constructed in the years of 1863-'64 and '65, when prices of materials and labor had been greatly increased. The total cost of the building and all extras settled under the terms of the contract was only \$118,075 07, and this figure has to be set against my estimate (prepared prior to the contract) of \$131,000. I dwell on this point because Hon. Mr. Twichell laid a great stress on the fact that I could not cite one instance where the cost of the building had not exceeded my estimates.

In table No. 2, herewith inclosed, I give a few instances of the increased cost of work done by the day's work system.

In table No. 3, I give the cost of a few items of furniture manufactured in Mr. Mullett's cabinet-maker shop. I would not have mentioned anything of this, if Mr. Mullett had not attempted to throw all the odium of the mirror purchase on me. When I was acting architect, before Mr. Mullett was appointed, I attempted to put a stop to the ridiculous extravagance of the furniture shop and to abolish it; but no sooner had Mr. Mullett been appointed full architect when that institution was put in more extensive operation than ever. When file-cases cost from \$1,100 to \$4,098, and desks \$719, &c., it is not to be wondered at that, after my ineffectual and thwarted attempts at economy, I let matters take their own course, as in the case of the mirrors, and moreover when the purchase was really to be made by another officer and from funds under the control of an other officer.

And yet, in justice to Mr. Willard, who furnished the mirrors, cornices, and walnut mantel-pieces, and who has been abused by Mr. Mullett in unmeasured terms, I would say that his goods were by far cheaper than those manufactured in Mr. Mullett's shop, and, as to the taste of selection which he vilifies so unstintedly, I would respectfully refer you to the opinion of Mr. Clark, architect of the United States Capitol, who saw the designs and goods.

I hope, general, that you will excuse the hasty character of my remarks.

Most respectfully,

B. OERTLY.

General J. F. FARNSWORTH,
House Representatives.

TABLE No. 1.—*Works done by and under contract.*

JANUARY 19, 1870.

Milwaukee court-house:	
Contract for original and extension.....	\$106,591 20
Total pay to contractors, inclusive all extras, at completion and final settlement.....	130,054 03
Increase 25 per cent.	
Buffalo court-house:	
Contract for original and extension.....	114,788 37
Total awards and payments by department at final settlement, inclusive all extras.....	125,327 81
Increase less 10 per cent.	
Cleveland court-house:	
Contract for original and extension.....	111,953 00
Final settlement with contractor.....	121,041 30
Increase less than 10 per cent.	
Wheeling court-house:	
Contract for original.....	\$80,159 97
Final settlement.....	85,070 82
Increase 6 per cent.	
Baltimore court-house:	
Contract.....	112,808 04
Final settlement under contract.....	118,075 07
Increase less than 5 per cent.	
My estimate for this work was \$131,000.	

Works done by day's work.—January, 1870.

Detroit custom-house:	
Cost of stone-work, as per reports of superintendent.....	\$47,806 69
Cost of identical stone-work furnished for the Cleveland court-house under contract.....	25,839 94
Increase nearly 100 per cent.	

Furniture of extension of Treasury building :

Cost of cabinet-maker shop per month over \$4,000, or, per annum.....	\$50,000 00
Total cost of furniture of Boston city hall, considered very complete and superior	65,000 00

Cost of sundry furniture manufactured in the government cabinet-makers' shop of the treasury extension.

Desks :

1 desk for Third Auditor, November 29, 1867	\$719 37
2 desks for Secretary's office, January 4, 1869	644 86
2 desks for Architect's office	661 15
2 standing desks for Fourth Auditor	1,000 25

Book-cases :

1 walnut book-case for Light-house Board, April 9, 1868	500 19
1 mahogany book-case for Register	591 98
1 mahogany book-case for Treasurer	849 33

File cases :

1 case for Fourth Auditor	4,098 56
1 case for Fourth Auditor	1,182 91
1 case and desk	1,104 00
1 case	913 75

FEBRUARY 3, 1870.

SIR: The following remarks on the estimates of the supervising architect Treasury Department, for a granite building for the New York post office, if constructed in accordance with his modifications of the original plans, and dated December 29, 1869, as compared with my estimate for the same work, prepared March, 1868, will show the merits of both. A comparison of the supervising architect's estimate, (dated January 12, 1870,) for a building erected in accordance with the *unmodified* original plans, with my estimate (prepared in March, 1868) for the same, and which coincided so nearly with the estimate of the five New York architects, may properly be left to the latter gentlemen for a deserving analysis.

The total of Mr. Mullett's figures for his modified granite building is.....	\$3,864,088 83
The total of my estimate for same	2,156,555 06
Exhibiting a difference of	1,707,533 77

or nearly of 80 per centum.

On this astonishing difference Mr. Mullett bases his accusation of my having willfully misled him.

Before entering on a comparison in detail, I would (for a better appreciation of the subject) state that the total area of ground purchased by the government from the city of New York for the site of a post office contains 65,259 superficial feet. The total area of ground covered by the city hall of Boston is 13,927 superficial feet. Now, the latter building is of granite, similar in style to the proposed New York building, and was erected during the war. Its cost, making a fair addition for fire-proofing, will therefore afford a singularly striking test for the above estimates. The total final cost of the Boston city hall (exclusive furniture) was \$440,000, or \$31 59 per superficial foot of ground covered. Supposing every foot of ground of the New York site covered by the proposed building, its cost at the above rate would be—

65,259 feet, at \$31 59	\$2,061,531 81
Add for fire-proofing, the ample amount of \$3 per foot	195,877 00
Total	2,257,408 81

Against my estimate of \$2,156,555, and the supervising architect's estimate of \$3,864,088 83.

For verification of my statement as to cost and area of the Boston building, I respectfully refer to the fine publication of the Boston city authorities, and to be found in the Congressional Library.

The grouping of items being quite different in the two estimates, a comparison cannot be made seriatim, but the following are the main differences in detail, viz:

1. Excavation, retaining walls, foundations, concrete, &c., Mullett's estimate.....	\$300,500 00	
My estimate.....	165,569 20	\$134,930 80
2. Iron-work, Mullett's estimate.....	725,281 40	
My estimate.....	595,439 00	129,842 40
3. Stone-work, Mullett's estimate.....	1,505,089 65	
Granite, my estimate.....	612,250 70	892,838 95
4. Steps and marble work.....	163,580 00	
	88,643 30	74,936 70
5. Brick-work.....	252,829 00	
	162,432 40	90,396 60
6. Heating apparatus.....	100,000 00	
	72,231 75	27,768 25
7. Total difference on plastering, carpentering, roofing, &c.....		133,099 28
8. Contingencies, Mullett's estimate.....	504,011 58	
My estimate.....	281,289 79	223,721 79
Total difference.....		1,707,533 77

The most glaring of the differences is on the granite-work, his estimate for the same amounting to \$1,505,089 65, mine to but \$612,250 70, making an increase over mine of \$892,838 95, or nearly 150 per centum.

Now, of all the items of my estimate, I am of none so sure of correctness as of this very item. This item was the only one which could be got from the plans with considerable accuracy, and my detail calculations for the same covered hundreds of smaller items. I used the price paid at the Treasury extension, increased by 75 per centum, and, to satisfy myself, I submitted my calculations and prices to one of the most experienced granite-cutters of the country, who pronounced that my figures gave an ample margin and profit to contractors. It suffices to state, also, that if the girth of the building is taken all round, then multiplied by its height from pavement to cornice, my estimate amounted to quite \$10 per superficial foot of stone surface thus arrived at. But then I was not aware, at that time, that the work was to be done under a contract similar to that entered into for the Charleston (South Carolina) custom-house, and *under which the cost of the stone-work was made to reach five times its fair market value.* (See House document, 37th Congress, No. 137.)

For all the other items I used prices which were at the time paid at the Treasury building, and my quantities were generally ample and often in excess.

Of course, when the specifications and plans are only mere sketches, it must be expected that the interpretation of the same will vary with each estimator, and that many items will be overlooked or added to the real ideas of the projector, neither of which would be done if the specifications and plans were complete. It is for this reason that in such cases the amount for contingencies is assumed at fifteen per centum. I am convinced that if plans and specifications had been perfected and completed, and the time required by law (sixty days) (a law so constantly violated by Mr. Mullett) given to master-builders for safe estimating, proposals for either of the three plans would have been received from responsible parties for less than my figures.

An additional vindication of my figures from Mr. Mullett's own report for 1869 will not be denied me. On page 27 of that report he gives a table of the cost of buildings per cubic foot, assuming the value of gold at thirty-three per cent. premium; from this table the average cost of buildings of class No. 1, or first class, erected under him, is found to be thirty-eight cents gold, or with thirty-three per centum premium, (the assumption of the table,) fifty and one-half cents currency per cubic foot. Now there were rather less than 5,500,000 cubic feet in the building proposed by the five architects, and the same ought to cost, according to Mr. Mullett's own data from his own constructions, but \$2,777,500, or \$1,100,000 less than what he now estimates its cost to be. Taking into account the fact known to every professional man, that the cost per cubic foot of similar constructions

decreases with the size of buildings, and that the prices of his table are based on buildings much smaller than the one under consideration, the above amount must be considerably lessened, and will leave a result, agreeing reasonably with my figures and not with his of December 29, 1869.

I am very far from claiming perfect accuracy for figures made in extreme hurry, on no or incomplete data and plans, yet I hope to have shown conclusively that my estimates were made fairly, in good faith, and with a reasonable degree of accuracy, and I will be pardoned for characterizing the allegation of my having willfully manipulated the estimates for deception as an unmitigated falsehood.

Most respectfully,

B. OERTLY, *Architect.*

General J. F. FARNSWORTH,
Chairman Com. P. O. and P. Roads.

Hon. GEORGE S. BOUTWELL, Secretary of the Treasury.

By the CHAIRMAN:

Question. Have you ever examined personally the plans for the New York post office prepared by the commission created by an act of Congress?—Answer. Not as I recollect.

Q. Did the judicial or postal officers of the government make any complaint as to the plans prepared by the commission under an act of Congress?—A. Not that I recollect.

Q. Did you direct Mr. Mullett to prepare new plans for that building?—A. I have no recollection of doing so.

Q. Have you exercised any, and if so, how much, personal supervision and inspection of materials proposed to be used, of bids or proposals or contracts, in reference to that building?—A. I recollect looking at specimens of granite in Mr. Mullett's room, but I think not with reference to New York post office. Mr. Mullett advised that the proposals were very favorable to the government, and such was my opinion.

Q. Upon whose recommendation was Mr. O'Beirne appointed disbursing officer of the New York post office?—A. I think Postmaster Jones was appointed disbursing officer for the post office building.

Q. Who recommended the appointment of Mr. Hale as timekeeper for the granite quarries at Cape Ann?—A. Our files show that he was recommended by General Butler.

Q. Did you direct Mr. Mullett or any other agent to make contracts with particular or named parties in connection with the Boston post office building?—A. I ratified the contracts after they were prepared, but I gave no instructions previously. I was consulted as to the terms by Mr. Mullett.

Q. Have you authorized the making of any contracts for either the New York or Boston post offices for material or labor without advertisement or public notice of any kind?—A. I ratified the contracts that were made in the belief that they were the most favorable that could be made for the government. I presume that Mr. Mullett informed me of the terms of the proposed contracts before they were made, and that I approved the proposition.

Q. Did you exercise any personal supervision over the contracts or other matter in connection with the construction of the Boston building?—A. Mr. Mullett and Mr. Bryant reported from time to time, and I ratified what was done. I have not supervised the proceedings personally, but I have endeavored to make myself acquainted with what was done.

Hon. J. A. J. CRESWELL, Postmaster General.

By the CHAIRMAN:

Q. Have you ever personally examined the plans for the New York post office, prepared by the commission created by an act of Congress for that purpose, or compared them with the plans of the Supervising Architect of the Treasury?—A. I have not. I examined and approved Mr. Mullett's plans, but never compared them with the plans prepared by the commission.

TREASURY DEPARTMENT,

Office of Supervising Architect, January 19, 1870.

SIR: I have the honor to transmit herewith copies of the contracts for granite and granite cutting for the new post office buildings in New York and Boston, as requested in your favor of this date.

Very respectfully,

A. B. MULLETT, *Supervising Architect.*

Hon. J. F. FARNSWORTH,
Chairman Com. P. O. and P. Roads, House of Reps.

Lease and contract between the United States and the Cape Ann Granite Company, of Gloucester, Essex County, Massachusetts.

This indenture of lease and contract made and entered into this thirteenth day of July, one

thousand eight hundred and sixty-nine, by and between Gridley J. F. Byrant, superintending architect of the Treasury Department at Boston, Massachusetts, acting for and in behalf of the United States, under the authority and direction of the Secretary of the Treasury, of the first part, and the Cape Ann Granite Company, of the county of Essex, in said State, of the second part, witnesseth :

Whereas, on the eighteenth day of June, A. D. 1869, the said party of the first part addressed a circular letter to certain owners of granite quarries, inviting sealed proposals for the lease of such quarries, and also for the quarrying from the quarry so leased, and delivering at the site of the new post office and sub-treasury building in the city of Boston, fifteen thousand tons (more or less) of stone for the foundation of said building, which circular is in the words and figures following, to wit :

"SIR: The government is desirous of leasing for a term of one year, with the privilege of four annual renewals thereof on the same terms, a quarry of light-colored granite, free from iron or other coloring matter, suitable for the foundation and superstructure of buildings similar in character to the proposed new post office and sub-treasury building to be erected in this city, to be capable of yielding, at easy access, not less than one hundred thousand tons of granite, and tested as to capacity and quality of stone, and to be in proper working order and fully provided with engines and engine-houses, pumps, derricks, blacksmith shops, sheds, tool-houses, magazines for powder, stables, and all other usual and necessary adjuncts to a first-class quarry, tools alone excepted. The machinery, &c., aforesaid to be sufficient in amount and capacity for the successful working thereof, to the carrying capacity of seven vessels, of one hundred tons each ; and in connection with said quarry the sole and exclusive use of wharves and wharfage sufficient to accommodate at one time at least seven vessels of one hundred tons each, drawing nine feet of water. The government to quarry or cause to be quarried not less than fifteen thousand tons of stone per annum, or in default thereof, to pay bankage and wharfage as if such an amount had been quarried, and to work said quarry during the period of said lease in a good and workmanlike manner, removing the grout to such point as may be agreed on, provided it shall not be removed more than half a mile, or over an elevation higher than the road to the wharf. Proposals to state the price per ton bankage, and also the price per ton wharfage which is to be in full of all claims whatever, the amount of rent being determined by the bankage and wharfage of the stone actually taken out by the United States, its agents or employes.

"The government desires, in addition, to procure proposals for the quarrying from the quarry so leased, and delivering at the site of the new post office and sub-treasury building in this city, fifteen thousand tons (more or less) of stone for the foundation of the post office and sub-treasury building, the price to be per cubic foot for stone not above twenty cubic feet each, with the additional price per cubic foot for stone above that size, and to include quarrying and delivery at the site of the building, and to be in excess of the bankage and wharfage aforesaid. The government reserves the right to work the quarry at the same time for any other purpose.

"Understanding that your quarry will meet these requirements, and that you are willing to lease the same, I respectfully solicit a sealed proposal from you for leasing the same and for delivering the stone as aforesaid ; the proposal to be submitted by twelve o'clock m., on the twenty-third day of June, 1869, when they will be opened and a decision made.

"A penal bond in the sum of ten thousand dollars to accompany your proposal, conditioned that a lease and contract in accordance with this letter will be executed by you.

"A blank form of the lease and contract, to be executed by the successful bidder, can be seen at the office of the superintendent of the new post office and sub-treasury building, at 55 Devonshire street in this city. The department reserves the right to reject any or all proposals submitted, or to accept the lease without accepting the proposal to quarry and deliver the stone for the foundation. In case of an acceptance by the government of any proposal to lease, the quarry, buildings, wharves, and equipments required by this letter must be surrendered to the government in proper working order within seven days from the signing of the lease."

And whereas Jonah H. French, in behalf of the Cape Ann Granite Company, on the 22d day of June, 1869, pursuant to the invitation contained in said circular letter, made and transmitted to the said party of the first part proposals for the lease of the quarry of said company, and for quarrying and delivering the stone therein mentioned, which proposals are in the words and figures following, to wit :

"BOSTON, June 22, 1869.

"DEAR SIR: I have to acknowledge the receipt of your proposal in behalf of the United States of the 18th instant, recalling your attention to the fact that I have already signed and executed in behalf of the Cape Ann Granite Company a lease and contract of their quarry in Gloucester, Massachusetts, and given bonds required according to the proposals heretofore made, and protesting that the Cape Ann Granite Company ought to be allowed to fulfill said contract according to the terms thereof. I again offer to lease the same quarry, with its sheds, stables, pumps, engines, and wharfage for seven vessels drawing at least nine feet of water, for one year with the privilege of renewal to five, for the sum of fifteen cents bank-

age, and ten cents wharfage for each ton of stone taken from said quarry by the United States, its agents or employés, the amount to be taken out to be not less than fifteen thousand tons per annum, to be paid for according to the terms of your proposal.

"I propose to contract to take from the quarry so leased by the United States, or any other as eligibly situated, and in the same working order, according to the terms of your proposals, foundation stone, and deliver the same at the site of the proposed post office building in Boston, at thirty-nine and three-quarters cents per cubic foot of such dimensions not exceeding twenty cubic feet as may be ordered, and one cent additional for each cubic foot of every stone above such dimension, and to give bonds in the penal sum required in sufficient sureties for the faithful performance of the contract in the form required, which I have examined at your office.

"I have the honor to be your obedient servant,

"JONAS H. FRENCH,

"In behalf of the Cape Ann Granite Company."

"GRIDLEY J. F. BRYANT, Esq.,

"Superintendent, &c., Boston.,

"P. S.—I am unable to present with this the required bond, as the United States district attorney, whose approval is necessary, is sick and unable to attend to his duties.

"J. H. F."

And whereas, with special reference to said circular letter and the specifications therein contained, said proposals were made; and whereas the said party of the first part, by direction of the Secretary of the Treasury, has, with like reference to said circular letter and specifications and in accordance therewith, accepted said proposals:

Now, therefore, in consideration of the premises and of the price to be paid for the lease of said quarry, and quarrying and delivering of said stone, the said party of the second part, its successors and assigns, do hereby lease, demise, and let all their granite quarry situated in said Gloucester, known as the quarry of the Cape Ann Granite Company, containing seventy acres more or less, however the same may be bounded and described, in proper working order and fully provided with engines and engine-houses, pumps, derricks, blacksmith shops, sheds, tool-houses, magazines for powder, stables, and all other usual and necessary adjuncts to a first-class quarry, tools alone excepted, the machinery, &c., aforesaid to be sufficient in amount and capacity for the successful working thereof, to the carrying capacity of seven vessels of one hundred tons each; and in connection with said quarry the sole and exclusive use of wharves and wharfage sufficient to accommodate at one time at least seven vessels of one hundred tons each, drawing nine feet of water; to have and to hold to the use of the said party of the first part, said quarry, buildings, wharf and wharfage, engines and machinery, for the term of one year from the date hereof, with the privilege of four annual renewals thereof upon the same terms and conditions, at the option of said party of the first part.

And the said party of the first part, acting for and in behalf of the United States, doth covenant, promise, and agree to pay or cause to be paid unto the said party of the second part, its successors or assigns, as and for the rent of said quarry, buildings, machinery, wharves and wharfage, and appurtenances, the sum of fifteen cents per ton of eleven cubic feet, for each ton of stone which may be taken out by the agents of the party of the first part, during said term or extended term of this lease, and also ten cents per ton as and for wharfage for each ton of stone so by said party of the first part shipped from said wharves so leased during said term; said payment to be made quarter-yearly, on the first days of July, October, January, and April, in lawful money of the United States, the said prices for bankage and wharfage to be in full of all claims whatsoever; the amount of rent being determined by the bankage and wharfage of the stone actually taken out by the United States, its agents and employés. And the said party of the first part, acting aforesaid, doth further covenant, promise, and agree to and with said party of the second part, its successors and assigns, that during the continuance of this lease, the United States will quarry or cause to quarried not less than fifteen thousand tons of stone per annum, or in default thereof, to pay bankage and wharfage as if such an amount had been quarried, and to work said quarry during the term of said lease in a good and workmanlike manner, removing the grout to such point as may be agreed on, provided it shall not be removed more than half a mile, or over an elevation higher than the road to the wharf. And the party of the second part doth covenant and agree with the party of the first part that they are lawfully seized in fee of the land, quarry, and wharves hereinabove mentioned, and they will, and their successors and assigns shall, maintain said party of the first part in possession and use of said leased property during the term and extended term of the same against the interference and hinderance of any party whatever. And the said party of the second part, their successors and assigns, further covenant and agree with the party of the first part that said lands, quarry, wharves, and wharfage are to the extent and capacity set forth and specified in the circular letter above recited. And the said party of the second part, their successors and assigns, further covenant and agree with the party of the first part that in case of a failure, in fact or performance, of any one or either of the covenants made or to be performed by said party of the second part, that this lease and contract shall become void in all its parts and conditions as to said

party of the first part, and the forfeitures hereinafter set forth shall be incurred because thereof, in like manner and to the same extent as hereinafter set forth as and for liquidated damages. And it is further covenanted and agreed by the party of the second part, its successors and assigns, that this lease shall be operative, and the party of the first part shall have full possession and use of said quarry, buildings, wharves, roads, and approaches as above specified, in proper working order, from and after seven days from the signing of this lease and contract. And the party of the second part, their successors and assigns, for the consideration hereinafter mentioned, do further covenant, agree, and promise to and with the party of the first part, that the party of the second will take out from said quarry and deliver at the site of the building being erected for the post office and sub-treasury at Boston, at such times as may be directed, fifteen thousand tons (more or less) of stone for the foundation of said post office and sub-treasury building as the party of the first part may direct. And the party of the second part doth covenant and agree that while working said quarry and taking out the stone hereinabove specified, the party of the second part will work said quarry in compliance with and in performance of all the covenants of the party of the first part to be performed: keeping the buildings, tools, wharves, and roads in repair as hereinbefore covenanted. And the party of the first part covenants and agrees to pay or cause to be paid to the party of the second part, its successors and assigns, the sum of thirty-nine and three-quarters cents per cubic foot for each cubic foot of stone so delivered as above contracted, when the dimensions do not exceed twenty cubic feet in each stone; with one cent additional for every cubic foot in any single stone beyond said twenty cubic feet each, in good and lawful money of the United States; seventy-five per cent. of the price of the stone delivered in each month to be paid monthly; the remaining twenty-five per cent. when the whole amount required is furnished, and the approval and acceptance of the whole by the superintendent given, which said amount of twenty-five per cent. shall be forfeited by the party of the second part in case of non-performance of this contract to the entire satisfaction of said superintendent. And it is further covenanted and agreed by and between the parties to this contract, that nothing herein contained shall prevent the party of the first part from taking out stone from said quarry while said party of the second part is engaged in furnishing stone therefrom according to the provisions of this contract. It is further covenanted and agreed by and between the parties to this contract that if from any cause whatever the said party of the second part should fail in required promptness in giving possession of said property or any part thereof, or in delivering said stone by or within the time or times specified above, it shall become the duty of the said superintendent, and he shall be and hereby is authorized and empowered, after eight days' due notice thereof, in writing, left at the shop-office or usual place of abode of the said party of the second part, or with his agent, without effect, to purchase and supply any deficiency in said delivery or said occupancy caused by the delinquency of said party of the second part, and the actual cost thereof together with fifteen per cent. thereon shall be deducted from any money due or owing to the said party of the second part on account of this contract; and if that amount be not due to said party, then the bondsmen are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States; or the said party of the first part may elect that if the party of the second part should fail to furnish said stone or give occupancy of property as aforesaid by or within the time or times specified above, that he shall forfeit the sum of one hundred dollars per diem for each and every day thereafter until the final completion of delivery or term of lease, which sum shall be deducted from any moneys which may be due said party, and if that amount be not due said party, then the bondsmen are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States. It is further covenanted and agreed between the parties to this contract, that the party of the second part shall execute, with two or more good and sufficient sureties, a bond to the United States in the sum of ten thousand dollars, conditioned for the faithful performance of this contract and the agreements and covenants herein made by the party of the second part. It is also covenanted and understood that no member of Congress or other person whose name is not at this time disclosed, shall be admitted to any interest in this contract; and it is further covenanted and agreed that this contract shall not be assigned except by consent of the Secretary of the Treasury; and that any assignment thereof, except as aforesaid, will be a forfeiture of the same. It is further covenanted and agreed by and between the parties hereto, that this contract shall be valid and binding when approved by the Secretary of the Treasury and not otherwise, and no departure from its conditions shall be made without his written consent.

In witness whereof, the parties hereto have hereunto subscribed their names and affixed their seals this thirteenth day of July, A. D. eighteen hundred and sixty-nine.

GRIDLEY J. F. BRYANT, [SEAL.]

Superintendent.

CAPE ANN GRANITE COMPANY, [SEAL.]

By JONAS H. FRENCH, *President.*

Witnesses to the signature of the superintending architect:

J. F. EATON,

J. FOSTER OBER.

Witnesses to the signature of the contractor and lessor:

GEO. D. WHITTLE.

L. B. FRYE.

Examined and found correct.

J. H. ROBINSON,
Assistant Solicitor.

JULY 19, 1869.

Approved:

GEO. S. BOUTWELL, *Secretary.*

JULY 20, 1869.

Bond.

Know all men by these presents, that we, Cape Ann Granite Company, by Jonas H. French, president, of the town of Gloucester, county of Essex, and State of Massachusetts, principal, and William E. French, of the city of Boston, county of Suffolk, and State of Massachusetts, and Seth E. Pecker, of the city of Boston, county of Suffolk, and State of Massachusetts, sureties, are held and firmly bound unto the United States of America in the sum of ten thousand dollars, to be paid in liquidated damages, for the payment of which well and truly to be made to the United States, we bind ourselves, our heirs, executors, administrators, or assigns, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this 14th day of July, A. D. 1869.

The condition of the above obligation is such, that if the above-bound Cape Ann Granite Company, by Jonas H. French, president, shall well and truly perform all the covenants contained in a certain lease contract, attached hereto, bearing date 13th July, A. D. 1869, between Gridley J. F. Bryant, for and in behalf of the United States, of the first part, and the said Cape Ann Granite Company, of the second part, to furnish and deliver all the materials, and do and perform all the work required by said contract in constructing or completing the building authorized to be erected at Boston, then the above obligation to be void; otherwise to remain in full force and virtue.

In testimony whereof, the said Cape Ann Granite Company, by Jonas H. French, president, and William E. French and Seth E. Pecker, have hereunto subscribed their hands, and affixed their seals, the day first above written.

CAPE ANN GRANITE Co.,
By JONAS H. FRENCH, *Prest.* [SEAL.]
WM. E. FRENCH. [SEAL.]
SETH E. PECKER. [SEAL.]

Signed, sealed, and delivered in presence of—
To all: A. H. HATCH.

STATE OF MASSACHUSETTS,

County of Suffolk, city of Boston, ss:

Personally appeared before me, a justice of the peace in and for said city of Boston, the said Jonas H. French, William E. French, and Seth E. Pecker, who signed the above obligation, and who made solemn oath that they are each worth ten thousand dollars over and above their legal liabilities.

Sworn to and subscribed as above written, this 16th day of July, A. D. 1869, before me.

JOHN C. ROPES,
Justice of the Peace.

OFFICE OF THE UNITED STATES DISTRICT ATTORNEY,
District of Massachusetts, Boston, July 17, A. D. 1869.

I hereby certify that William E. French and Seth E. Pecker, the sureties who have signed the foregoing bond, are known to me as residents of Boston, and citizens of the United States, and that I believe them to be amply sufficient security for the amount thereof, and that the bond is good.

G. S. HILLARD,
U. S. Attorney.

Examined and found correct.

J. H. ROBINSON,
Ass't Solicitor.

JULY 19, 1869.

Approved:

GEO. S. BOUTWELL, *Secretary.*

JULY 20, 1869.

Contract between the United States of America and the Cape Ann Granite Company.

Whereas by indenture bearing date July 14, 1869, the United States of America, by Gridley J. F. Bryant, superintending architect of the Treasury Department at Boston, Massachusetts, of the first part, and the Cape Ann Granite Company, of Gloucester, Essex County, Massachusetts, of the second part, entered into a lease and contract for the supply of fifteen thousand tons (more or less) of granite for the foundation of the post office and sub-treasury building in course of erection in the city of Boston, Massachusetts, upon certain terms and conditions, which by reference to said indenture will more fully appear, and whereas it is deemed desirable to use the same granite for the construction of the entire building:

Now, therefore, this indenture, made and entered into by and between Gridley J. F. Bryant, superintending architect of the Treasury Department at Boston, Massachusetts, acting for and in behalf of the United States, of the first part, and the Cape Ann Granite Company, of Gloucester, Essex County, Massachusetts, of the second part, witnesseth: That the said party of the second part will well and truly furnish from the said quarry, and deliver at the site of the said building, at such times as may be directed by the said party of the first part, such stone as may be required by the said party of the first part for the superstructure of said building, said stone to be free from flaws, stains, seams, or other defects, and to be uniform in color and texture, and free from iron or other foreign substances.

All the stone hereby contracted for to be wrought and dressed in such manner and style of workmanship as the party of the first part may direct.

The party of the first part covenants and agrees to pay, or cause to be paid, unto the said party of the second part, or to their legal representatives, for the stone so delivered by said party of the second part for the said superstructure of said building, in lawful money of the United States, the sum of fifty-five cents per cubic foot for all stones the quarried dimensions of which do not exceed twenty cubic feet in each stone, and one cent additional for every cubic foot of those having such dimensions exceeding twenty cubic feet.

Ninety (90) per cent. of such payments shall be made monthly for all stone so delivered, (the value to be ascertained by the said party of the first part) and the residue of ten (10) per cent. shall be paid when this contract shall be fulfilled by the party of the second part to the satisfaction and approval of said party of the first part.

It is further covenanted and agreed by and between the parties hereto, that the party of the first part shall still have the right of working the said quarry, and of taking therefrom any stone which may be required for use in the construction of public buildings, in the manner provided in the indenture bearing date July 14, 1869, hereinbefore specified, and the said party of the first part agrees to make the same payment for bankage and wharfage of all stone taken from said quarry under this contract as is stipulated to be paid for bankage and wharfage of the stone contracted for in the indenture of July 14, 1869, above specified, (and the party of the first part will furthermore pay to the party of the second part, or their legal representatives, the full expense and cost of such working, dressing, insuring, and boxing, of said stone, as may be required by the party of the first part to be done at said quarry, increased by fifteen per centum thereof,) and for the purpose of determining the amount thereof, the party of the first part shall employ such agent or agents, who shall take all necessary account of such cost and expense, and for such purpose shall be afforded all proper facilities by said party of the second part.

It is further agreed that in case of the failure of the party of the second part faithfully to perform the stipulations of this contract, or either of them, then the said party of the second part shall forfeit to the use and benefit of the United States, as liquidated damages, the whole or such portion of the retained percentage, above specified as the said party of the first part may deem just and proper, and if the amount of such retained percentage be not sufficient to reimburse the United States for the loss and damage sustained, then the bondsmen of the party of the second part are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States; or the said party of the first part may elect that, if the party of the second part should fail to furnish said stone, or give occupancy of the property as aforesaid, by or within the time or times specified above, that the said party of the second part shall forfeit the sum of one hundred dollars (\$100) per diem for each and every day thereafter until the final completion of delivery or term of lease; which sum shall be deducted from any moneys which may be due said party, and if that amount be not due said party, then the bondsmen are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States.

It is further covenanted and agreed between the parties to this contract, that the party of the second part shall execute, with two or more good and sufficient sureties, a bond to the United States in the sum of ten thousand dollars, (\$10,000.) conditioned for the faithful performance of this contract and the agreements and covenants herein made by the said party of the second part.

It is also covenanted and understood that no member of Congress or other person whose name is not at this time disclosed shall be admitted to any interest in this contract; and it is further covenanted and agreed that this contract shall not be assigned except by consent of the Secretary of the Treasury, and that any assignment thereof, except as aforesaid, will be a forfeiture of the same.

It is further covenanted and agreed by and between the parties hereto, that this contract shall be valid and binding when approved by the Secretary of the Treasury, and not otherwise, and no departure from its conditions shall be made without his written consent.

In witness whereof, the parties hereto have hereunto subscribed their names and affixed their seals, this twenty-sixth day of October, A. D. 1869.

GRIDLEY J. F. BRYANT, *Supt.* [SEAL.]

CAPE ANN GRANITE CO.,

By JONAS H. FRENCH, *Pres'd't.* [SEAL.]

Witness to the signature of the superintendent :

FRANK H. KIMBALL.

Witness to the signature of the contractor :

GEO. D. WHITTLE.

Bond.

Know all men by these presents that we, Jonas H. French, president Cape Ann Granite Company, of Boston, county of Suffolk, and State of Massachusetts, principal, and William E. French, of Boston, county of Suffolk, and State of Massachusetts, and Newell A. Thompson, of Boston, county of Suffolk, and State of Massachusetts, sureties, are held and firmly bound unto the United States of America in the sum of ten thousand dollars, (\$10,000,) to be paid as liquidated damages, for the payment of which well and truly to be made to the United States we bind ourselves, our heirs, executors, administrators, or assigns, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this 26th day of October, A. D. 1869.

The condition of the above obligation is such, that whereas the said Cape Ann Granite Company has entered into a certain contract, hereto attached, with Gridley J. F. Bryant, acting for and in behalf of the United States, bearing date the 26th day of October, 1869: Now if the said Cape Ann Granite Company shall well and truly comply with all the conditions of said contract, and shall perform all the undertakings therein stipulated by to be performed, then this obligation to be void; otherwise to remain in full force and virtue.

In testimony whereof the said Jonas H. French, William E. French, and Newell A. Thompson have hereunto subscribed their hands and affixed their seals, the day first above written.

CAPE ANN GRANITE CO.,

By JONAS H. FRENCH, *Pres't.* [SEAL.]

WM. E. FRENCH. [SEAL.]

N. A. THOMPSON.

Signed, sealed, and delivered in presence of—

Witness: J. H. F., and W. E. F.,

JOHN BARKUP.

WM. L. JANES.

JOHN MCCLELLAN.

STATE OF MASSACHUSETTS, *County of Suffolk, ss :*

BOSTON, *October 26, 1869.*

Personally appeared before me, a justice of the peace in and for said county, the said Jonas H. French, president, William E. French, and Newell A. Thompson, who signed the above obligation, and who made solemn oath that they are each worth, over and above their legal liabilities, twenty thousand dollars.

Sworn to and subscribed, as above written, before me, this 26th day of October, 1869.

JOHN MCCLELLA

OFFICE OF THE UNITED STATES ATTORNEY,

District of Massachusetts, Boston, October 26, 1869.

I hereby certify that W. E. French, and N. A. Thompson, the sureties who have signed the foregoing bond, are known to me as residents of Boston, and citizens of the United States, and that I believe them to be amply sufficient security for the amount thereof, and that the bond is good.

G. S. HILLARD,

U. S. Attorney.

Examined and found correct.

J. H. ROBINSON,

Ass't Solicitor.

NOVEMBER 8, 1869.

Approved November 8, 1869.

GEO. S. BOUTWELL,

Sec'y of the Treasury.

Contract between the United States of America and the Dix Island Granite Company.

Whereas, Courtland P. Dixon, of the city of Brooklyn, county of Kings and State of

New York, who is treasurer of the Dix Island Granite Company, has proposed to furnish, under advertisement dated July 13, 1869, certain granite from the quarries of said company, situate near the coast of Maine, on an island known as Dix Island, for the new post office building to be erected in the city of New York; and whereas, the Secretary of the Treasury, in behalf of the government of the United States, desires the right of using the same granite for the construction of the entire building:

Now, therefore, this indenture made and entered into this first day of September, A. D. 1869, by and between A. B. Mullett, Supervising Architect United States Treasury Department, for and in behalf of the United States of the first part, and the Dix Island Granite Company, a corporation duly organized under the laws of the State of New York, the party of the second part, witnesseth—

That the said party of the second part will well and truly furnish and deliver, at the site of said new post office, at such times as may be directed by the said party of the first part, all such stone as may be required in the construction of said building; all such stone to be delivered from the said quarry of the party of the second part, except those for the piers and footing stone of the sub-basement, which may be furnished from other approved quarries, if desirable to expedite deliveries.

All stone for the basement and sub-basement stories to be so delivered on or before the thirtieth day of November next, and the remainder in such quantities and at such times as the party of the first part may require; provided, that the completion of the delivery of such remainder shall not be required before the thirtieth day of November, 1870.

All the stone hereby contracted for to be wrought and dressed in such manner and style of workmanship as the party of the first part may direct.

The party of the first part hereby covenants and agrees to pay or cause to be paid unto the said party of the second part or their legal representatives, for the stone so delivered by the party of second part, in lawful money of the United States, the sum of sixty-five cents per cubic foot for all stones when the quarried dimensions do not exceed twenty cubic feet in each stone, and one cent additional for every cubic foot of those having such dimensions, exceeding twenty feet.

Ninety per centum of such payments shall be made monthly for all stone so delivered, and the residue of ten per centum shall be paid when this contract shall be fulfilled by the party of the second part to the satisfaction and approval of said party of the first part; and the party of the first part will furthermore pay to the party of the second part, or their legal representatives, the full expense and cost of such working, dressing, insuring, and boxing of said stone as may be required by the party of the first part to be done at the said quarry, increased by fifteen per centum thereof, and for the purpose of determining the amount thereof. The party of the first part shall employ such agent or agents, who shall take all necessary account of such cost and expense, and for such purpose shall be afforded all proper facilities by said party of the second part.

Is is further agreed that, in case of the failure of the party of the second part faithfully to perform the stipulations of this contract or either of them, the said party of the second part shall forfeit to the use and benefit of the United States, as liquidated damages, the whole or such portion of the retained percentage above specified as the said party of the first part may deem just and proper, and if the amount of such retained percentage is not sufficient to reimburse the United States for the loss and damage sustained, then the bondsmen of the party of the second part are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States.

The better to provide for and secure the delivery of the stone herein contracted for, it is hereby agreed by the party of the second part that the said party of the second part shall and hereby does let and lease their said quarry, with all and singular all tools, buildings, wharves, and appurtenances thereunto appertaining, unto the said party of the first part, with the full right, authority, and power to enter upon, occupy and use the same in any proper manner to procure therefrom any and all such stone as said party of the second part shall fail, omit or decline to furnish; such lease to continue for the full term of four years, or such portion thereof as the said party of the first part may require to procure therefrom the stone which the said party of the second part shall have so failed, omitted, or declined to furnish. It being understood and agreed that such entry or occupancy of the said premises shall not be made by said party of the first part, unless in any such case the party of the first part shall give to the party of the second part eight days' notice of intention so to do in consequence of failures to deliver, to be specially stated, and such failure shall continue on the expiration of such eight days. And in the event of any such entry, occupancy, and use under this lease the quarry shall be worked by the party of the first part or under his direction, in such workmanlike manner as not unnecessarily to injure the same, and the appurtenances of every kind shall be kept in good repair, usual wear and tear excepted.

And the premises and appurtenances shall be duly released and re-delivered to the party of the second part or their legal representatives without unnecessary delay, whenever the purposes of the lease, as herein declared, shall have been accomplished.

The party of the first part hereby agrees to pay to the party of the second part, or their legal representatives, for the said use and occupancy of the said premises and appurtenances, twenty-five cents per ton of eleven cubic feet, as rental, bankage, and wharfage for all stone procured by said party of the first part under or pursuant to said lease.

It is further covenanted and agreed between the parties to this contract that the party of the second part shall execute, with two or more good and sufficient sureties, a bond to the United States in the sum of ten thousand dollars, (\$10,000,) conditioned for the faithful performance of this contract, and the agreements and covenants herein made by said party of the second part.

It is also covenanted and understood that no member of Congress or other person whose name is not at this time disclosed, shall be admitted to any interest in this contract, and it is further covenanted and agreed that this contract shall not be assigned, except by consent of the Secretary of the Treasury, and that any assignment thereof, except as aforesaid, will be a forfeiture of the same.

It is further covenanted and agreed by and between the parties hereto, that this contract shall be valid and binding when approved by the Secretary of the Treasury, and not otherwise, and no departure from its conditions shall be made without his written consent.

In witness whereof, the parties hereto have hereunto subscribed their names and affixed their seals this first day of September, A. D. 1869.

A. B. MULLETT, [SEAL.]

Supervising Architect.

THE DIX ISLAND GRANITE COMPANY,
By EDWARD LARNED, *President.*
C. P. DIXON, *Treasurer.*

Witnesses to the signature of the supervising architect :

J. C. RANKIN.

A. G. MILLS.

Witnesses to the signature of the contractor :

HENRY ROBERTS.

A. G. MILLS.

Bond.

Know all men by these presents that we, the Dix Island Granite Company, by Edward Larned, its president, and Courtlandt P. Dixon, its treasurer, of the city of New York, county of New York, and State of New York, principal; and Courtlandt Palmer, of the city of New York, county of New York, and State of New York, and O. De Forest Grant, of the city of New York, county of New York, and State of New York, sureties; are held and firmly bound unto the United States of America in the sum of ten thousand dollars, to be paid in liquidated damages; for the payment of which well and truly to be made to the United States, we bind ourselves, our heirs, executors, administrators, or assigns, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this second day of September, A. D. 1869.

The condition of the above obligation is such, that if the above bound, the Dix Island Granite Company, shall well and truly perform all the covenants contained in a certain contract attached hereto, bearing date September 1, A. D. 1869, between A. B. Mullett, Supervising Architect of the United States Treasury Department, for and in behalf of the United States, of the first part, and the said the Dix Island Granite Company of the second part, to furnish and deliver all the materials, and do and perform all the work required by said contract in constructing or completing the building authorized to be erected at the city of New York, then the above obligation to be void; otherwise to remain in full force and virtue.

In testimony whereof, the said the Dix Island Granite Company, and the said Courtlandt Palmer and O. De Forest Grant have hereunto subscribed their hands and affixed their seals, the day first above written.

THE DIX ISLAND GRANITE CO.,
By EDW'D LARNED, *President.*
C. P. DIXON, *Treasurer.*
COURTLANDT PALMER.
O. D. F. GRANT.

Signed, sealed, and delivered in presence of—

STATE OF NEW YORK, *County of New York, City of New York, ss :*

Personally appeared before me, a notary public of the State of New York, in and for said city of New York, the said Courtlandt Palmer and O. De Forest Grant, to me personally known to be the persons described in and who signed the above obligation, and who made solemn oath that they are each worth twenty thousand dollars over and above their legal liabilities.

CORTLANDT PALMER.
O. D. F. GRANT.

Sworn to and subscribed as above written, this 2d day of September, A. D. 1869.

[SEAL.]

ALBERT H. BANCKER, *Notary Public.*

OFFICE OF THE UNITED STATES ATTORNEY,
Southern District of New York, September 30, A. D. 1869.

I hereby certify that Courtlandt Palmer and O. De Forest Grant, the sureties who have signed the foregoing bond, are known to me as residents of the city of New York and citizens of the United States, and that I believe them to be amply sufficient security for the amount thereof, and that the bond is good.

SOUTHERN DISTRICT OF NEW YORK:

I certify that I have made due and diligent inquiry as to the sufficiency of the sureties to the foregoing bond, and that in my opinion they are good and sufficient to pay the penalty of the said bond, and said sureties are residents of the United States.

EDWARDS PIERREPONT,
United States Attorney.

NEW YORK, September 3, 1869.

Examined and found correct.

E. C. BANFIELD, *Solicitor.*

SEPTEMBER 10, 1869.

Approved September 18, 1869.

GEO. S. BOUTWELL, *Secretary.*

Schedule of proposals received under advertisement of July 13, 1869, for dimension granite, rubble stone, and stone for concrete, for New York post office.

No.	Name of bidder.	Address.	Dimension granite.	Rubble stone.	Stone for concrete.
1	George Mark	West Troy, N. Y.	\$1 per cub. ft	No bid	No bid
2	J. H. Sullivan.....	New York City..	No bid	\$10 per cub. yd ...	\$10 per cub. yd ...
3	Jas. E. Neale.....	Philadelphia Pa	No bid	\$5 72 per cub. yd ..	\$5 47 per cub. yd..
4	Jas. Sharkey.....	Brooklyn, N. Y..	\$1 40 per cub. ft ...	No bid	No bid
5	Daniel Brennan, jr.	Orange, N. J.	No bid	No bid	\$4 37 per cub. yd.
6	C. P. Dixon.....	New York, N. Y.	65c. per cub. ft	\$10 25 per cub. ft.	No bid
7	Henry Exall.....	Richmond, Va....	\$1 per cub. ft	No bid	\$8 per cub. yd
8	Wm. H. Williams..	New York City..	62½c.* per cub. ft ..	\$6 62½ per cub. yd.	\$4 69 per cub. yd..
9	Geo. P. Wescott...	Portland, Me.....	74c. per cub. ft	\$11 75 per cub. yd.	.....
10	Chas. B. Hough....	New York City..	No bid	No bid	\$3 37½ per cub. yd.

*Lowest.

Bid of Geo. P. Wescott for granite in detail, Spruce Head or Fox Island, 74 cents per cubic foot; Biddeford, 80 cents per cubic foot; Sullivan, 95 cents per cubic foot; Hallowell \$1 25 per cubic foot.

Opened August 14, 1869, at 12 m., by A. B. Mullett, supervising architect, in the presence of A. R. Hulburd, Comptroller of Currency; J. C. Rankin, Assistant Supervising Architect; A. G. Mills, court clerk.

Schedule of proposals for cement for the post office building in New York, invited in advertisement of July 13, 1869.

No.	Name of bidder.	Address.	Price per barrel.
1	Delafield & Baxter.....	New York City.....	\$1 97
2	F. O. Norton.....	do.....	2 00
3	Potomac Mills Mining & Manufacturing Company, (informal.)	Shepardstown, W. Va..	5,000 barrels, at 1 70 5,000 do. 1 85 5,000 do. 1 95 5,000 do. 2 05
4	E. N. Brigham.....	New York.....	2 00

Opened July 31, at 12 o'clock, m., in presence of Henry D. Barron, Fifth Auditor, A. B. Mullett, Supervising Architect, J. C. Rankin, Assistant Supervising Architect.

Schedule of proposals for excavating and carting away earth from the post office site in New York, invited in advertisement of July 13, 1889.

No.	Name of bidder.	Address.	Price per cubic yard.
1	Henry G. Silleck, jr.....	New York City....	\$1 15
2	Henry G. Silleck, jr.....	do.....	1 13
3	Thomas Hayden.....	do.....	94
4	Michael Mulry.....	do.....	1 48
5	James Bagley, (32 Pike street).....	do.....	1 00
6	William Mulry.....	do.....	1 34
7	James Conglin.....	do.....	1 25
8	James Everard.....	do.....	83
9	Daniel Tone.....	do.....	95
10	James Mulry, (informal).....	do.....	96½

Opened July 31, 1869, at 12 o'clock m., in presence of Henry D. Barron, Fifth Auditor, A. B. Mullett, Supervising Architect, J. C. Rankin, Assistant Supervising Architect.

Schedule of bids for 32 cast-iron columns for United States post office and court-house, New York City, received under advertisement dated November 23, 1869, and opened December 3, 1869, at 12 o'clock, noon.

No.	Name of bidder.	32 iron colum's	32 cas-ings.	16 top plates.	Per col-umn.	Total.
		<i>Each.</i>	<i>Each.</i>	<i>Each.</i>		
1	J. B. & W. W. Cornell.....	\$72 75	\$9 60	\$62 70		\$3, 638 40
2	Wm. Taylor & Son.....				\$220 00	7, 040 00
3	George R. Jackson.....	135 75	2 16	33 86		4, 953 88
4	Dawson & Co.....	226 26	4 00	56 43		8, 272 20
5	Ætna Iron Works.....	150 34	2 39	37 49		5, 487 24
6	Iron City Foundry, Pittsburg.....	314 00	5 00	88 00		11, 616 00
7	McKinley & Smack.....	265 00	7 00	72 00		9, 856 00
8	James L. Jackson & Brother.....				265 00	8, 480 00
9	James Kirtland & Co.....	189 00	8 00	48 00		7, 072 00
10	Watson & Delapierre.....	200 00		50 00		7, 200 00
11	Architectural Iron Works.....	200 00	4 80	44 00		7, 257 60
12	H. C. Oram & Co.....	155 87	2 80	38 87		5, 699 36
13	Hubbard & Whittaker.....	213 69	3 40	50 16		7, 700 00
14	Paulding, Kemble & Co.....	165 92	2 64	41 38		6, 056 00

Opened by C. T. Hulburd, Superintendent United States post office and court-house, in the presence of A. B. Mullett, Supervising Architect, P. H. Jones, disbursing agent.

Contracts for material, &c., for new post office, New York, N. Y.

Names of contractors.	Address.	Object.	Rate.	Amount.
James Everard*.....	New York City.	Excavation of site....	83c. per cub. y'd	\$7, 243 41
Delafield & Baxter†	do	20, 000 barrels cement.	\$1 97 per barrel..	(Amount actually paid)
Dix Island Granite Co‡	do	Granite	65c. per cub. f't.§	39, 400 00
Do	do	Lease of quarry.....	25c. per ton	Such quantities as may
Do	do	Granite dressing.....	15 p'ct. advance	from time to time be
			on actual cost..	ordered.
J. B. and W. W. Cornell.	do	32 cast-iron columns..		do.
				do.
				3, 638 40

* Canceled. Excavation completed by days' labor.

† With privilege of taking more or less at same rate.

‡ These three objects are made the subject of a single agreement. The object of the lease being to insure the procurement of homogeneous granite for the building, and of the provision for granite cutting, that the government might have the advantage of the 10 hours of labor furnished by the contractor.

§ And one cent per cubic foot additional for stones, whose dimensions exceed twenty cubic feet.

BOSTON, April 23, 1869.

Abstract of proposals for furnishing cement, lime, and sand.

Name.	Cement per barrel.	Lime per cart.	Sand per ton.
DeLafield & Baxter.....	\$2 45	.....	.....
Wingate & Field.....	2 50	\$1 40	\$1 60
Claffin & Wellington.....	2 45	1 45	1 45*
Jotham, Barry & Co.....	2 60	1 60	1 70

*2,000 pounds.

Hudson River Cement Works decline bidding.

Abstract of items and totals of the bids received for the cast-iron work for basement of post office and sub-treasury building, at Boston, under the advertisement of August —, ———.

Name and residence.		32—C.	37—A.	5—B.	14—D.	8—E.	24—F.	37—G.
West Point Foundry, New York.	\$20,064 44	\$5,127 36	\$7,900 61	\$1,090 95	\$207 20	\$302 40	\$981 12	\$4,454 80
Builders' Iron Foundry, Providence, Rhode Island.	20,064 81	5,127 36	7,900 98	1,090 95	207 20	302 40	981 12	4,454 80
H. C. Oram & Co., Philadelphia.	22,795 00	6,006 40	9,028 00	1,231 20	236 80	298 08	966 96	5,027 56
Fulton Iron Foundry, Boston.	23,970 00	6,112 00	9,435 00	1,300 00	259 00	360 00	1,176 00	5,328 00
Excelsior Iron Works, New York.	24,124 10	.....	.....	.....	.....	.....	.....	.....
Novelty Iron Works, New York.	24,365 00	.....	.....	.....	.....	.....	.....	.....
G. W. & F. Smith, Boston....	24,695 60	6,368 00	9,768 00	1,345 00	288 60	320 00	1,956 00	5,550 00
Bartlett, Robbins & Co., Baltimore.	28,533 00	7,360 00	11,100 00	1,550 00	296 00	432 00	1,320 00	6,475 00
Architectural Iron Works, New York.	31,686 00	9,344 00	12,580 00	1,800 00	592 00	320 00	1,056 00	5,994 00

GRIDLEY J. F BRYANT, Superintendent

BOSTON, September 1, 1869.

Schedule of proposals for furnishing iron beams for first story floor.

Name.	Place.	Amount of bid.
John H. Reed.....	Boston.....	\$15,998 05
Phoenix Iron Company.....	Philadelphia.....	16,033 00
Union Iron Mills.....	Pittsburg.....	16,059 00
Union Iron Works.....	Buffalo.....	16,114 78
Paulding, Kemble & Co.....	New York.....	17,350 00
Novelty Iron Works.....	New York.....	17,585 00

Proposal of John H. Reed, of Boston, accepted.

Contract for material, &c., for new post-office and sub-treasury, Boston, Mass.

Names of contractors.	Address.	Object.	Rate.	Amount.
Charles Linehan.....	Cambridge, Mass...	Removal of earth from site	28 c. per cub. yd..	\$3,376 80
Delafield & Baxter*	New York City	Cement	\$2 05 per barrel..	3,815 05
Cape Ann Granite Co..	Essex County, Mass	15,000 tons of granite	139½ c. per cub. ft.	66,000 00
Cape Ann Granite Co..	Essex County, Mass	Lease of quarry	25 c. per ton.....	For such stone as may be taken thereunder.
Cape Ann Granite Co..	Essex County, Mass	Granite	155 c. per cub. yd.	Such quantities as may from time to time be ordered.
Cape Ann Granite Co..	Essex County, Mass	Granite cutting	15 per c. advance on cost.	
Paulding, Kemble & Co.	New York City	Cast-iron columns for base- ment story		\$20,064 44
John H. Reed.....	Boston, Mass.....	Iron bearers for first story		15,998 05

* This contract is for such cement as may be ordered prior to November 1, 1869. The amount is taken from the last report of the superintendent. For basement story with option of taking more or less at same rate

† And 1 cent per cubic foot, additional, for stones whose dimensions exceed 20 cubic feet.

‡ For superstructure.

DEAR SIR: I take the liberty of inclosing to you copies of bids received, under instructions from the supervising architect, for leasing quarries and supplying foundation stone for the post office. These copies, as you will perceive, have been forwarded me at my request, and would have been brought to the notice of the committee had they been received at an early day.

With great respect, yours obediently,

GRIDLEY J. F. BRYANT,
Superintendent.

Hon. G. TWICHELL, &c., &c.

TREASURY DEPARTMENT, OFFICE OF SUPERVISING ARCHITECT,
January 3, 1870.

SIR: In compliance with the request contained in your telegram of the 31st ultimo, I send you herewith copies of Sheldon's and Stinson's proposals for furnishing foundation stone for the work under your charge, together with a copy of the schedule of bids, from which you will see that no proposals by Clapp or Ballou were transmitted to this office.

You will remember that Stinson declined to execute the contract awarded him upon his bid.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

G. J. F. BRYANT, Esq.,
Superintendent Post Office and Sub-treasury, Boston, Mass.

(Copy of schedule of bids.)

O. E. SHELDON'S PROPOSITION.

Quarry for one year, 4 annual renewals. On 15,000 tons, at 30 per ton, whether so much taken or not. On over 15,000 tons, at 15 per ton. Will deliver 15,000 tons, whether proposal for quarry is accepted or not, for 80 cents per cubic foot. On stones containing more than 20 cubic feet, 1 cent per cubic foot over.

CAPE ANN GRANITE COMPANY.

Quarry for 1 year, with privilege of five, 15 cents per ton bankage, and 10 cents wharfage. Amount to be not less than 15,000 tons per year. Take from his quarry, or any other as well situated, &c., foundation stone, and deliver at site of post office, Boston, for 39½ per cubic foot, not over 20, and for over, 1 cent per foot.

ROCKPORT GRANITE COMPANY.

Quarry 20 acres, 30 cents bankage, 5 cents wharfage; 15,000 tons to be taken out. Grout to be thrown over breakwater. Also, to deliver in addition to bankage and wharfage, for 40 cents cubic foot at Boston, not exceeding 20 foot, over half a cent additional per foot.

ROCKPORT, MASS.,

May 11, 1869.

SIR: Your letter of April 28, inviting proposals for stone for the foundation for the proposed new post office and sub-treasury building in Boston, has been received, and in reply will say: We will lease to the United States government a stone quarry suitable to quarry the foundation stone from for the proposed building, and furnish sufficient wharves to load the stone on board the vessel from, with a good chance to get rid of the grout, all within the distance required by your letter referred to above.

The quarry is now being worked by us, and is in good working order; good roads, with a gradual descent from the quarry to the wharves. There is about twenty acres of quarry land, which we propose to lease to the government: and the wharves are the most convenient to freight stone from there is on Cape Ann, and we are now paying from ten to twenty-five cents a ton less freight money on stone from these wharves than is being paid from any other wharves on the cape.

We will lease the quarry for fifteen cents a ton bankage, and five cents a ton wharfage. We will deliver the stone at the building site for forty cents a cubic foot, for those containing up to twenty cubic feet each, and one-half a cent a foot additional for those which contain more than twenty cubic feet each.

Yours, &c.,

JOHN STINSON,

Treasurer of the Rockport Granite Co.

GRIDLEY J. F. BRYANT,

Superintendent, Boston, Mass.

BOSTON, June 22, 1869.

SIR: Under your circular letter of June 18, 1860, I propose to lease to government my quarry at Rockport, with the wharf, stables, sheds, office, blacksmith shop, houses, &c., for the term of one year, with the privilege of four annual renewals. If the government should quarry, and take out stone to the amount of fifteen thousand tons, they are to pay me thirty cents per ton, and to pay me to that amount on fifteen thousand tons, whether they quarry them or not; if they quarry more than fifteen thousand tons, they are to pay me fifteen cents per ton for all tons over the fifteen thousand tons.

I also propose to furnish and deliver fifteen thousand tons of foundation stone (more or less) for fifty cents per cubic foot, with or without leasing the quarry; stone to be delivered at site for post office and sub-treasury building; all stone containing more than twenty cubic feet one cent to be added.

Yours respectfully,

O. E. SHELDON.

G. J. F. BRYANT,

Supt. of Construction of Boston P. O. and Sub-treas. Building.

P. S.—I have called to have the district attorney approve the bond; was told he was sick I have no way of getting it executed.

O. E. S.

Letter from the Secretary of the Treasury in answer to a resolution of the House of Representatives of March 6, relative to the proposed post office building in New York, being H. Ex. Doc. 243 of the second session of the fortieth Congress.

TREASURY DEPARTMENT,

March 30, 1868.

SIR: The following resolution adopted by the House of Representatives on the 6th instant was duly received:

"*Resolved*, That the Secretary of the Treasury be directed to have detailed estimates of the cost of the proposed post office and court-house building in the city of New York, according to the plans presented by the commission to procure said plans, and to report at the earliest moment, with any recommendations in regard to the material and mode of construction he may deem proper."

Herewith I have the honor to hand you a communication from the Supervising Architect of the Treasury Department, which is intended to answer fully the resolution referred to.

I have the honor to be, very respectfully, your obedient servant,

H. McCULLOCH, *Secretary of the Treasury.*

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

TREASURY DEPARTMENT,

Office of the Supervising Architect, March 30, 1868.

SIR: In accordance with your instructions I have carefully examined the plans and specifications for the proposed post office and court-house building in the city of New York, submitted by the commission appointed by joint resolution approved January 22, 1867, and have the honor to submit the following report.

(The report concludes as follows:)

I have the honor to submit the following estimates, and to say that I am of the opinion that the plan presented could not be completed in the manner proposed for less than \$3,435,878 46, (assuming the construction to be practicable.) The result would even then be an unsatisfactory and unsubstantial structure—at best an experiment in iron construction; which, if desirable to make, should be made on a smaller scale, or at the expense of the projectors.

I am, however, confident that a first-class fire-proof building, equal in workmanship and durability to the Treasury building, and of equal capacity with the plan proposed and of the same exterior design, can be erected for a sum not to exceed \$2,495,212 22 in marble, or \$2,156,555 06 in granite. The difference between the cost of marble and the best light-colored New England granite, it will be observed, is \$338,657 16, and is, in my opinion, not over-estimated; and I am confident that an examination of the Treasury building, or of the magnificent granite buildings recently erected in Boston, including its beautiful City Hall, (which is of similar architecture with the proposed building,) will convince any unprejudiced person of the great superiority of that material for large public buildings, both for durability and beauty, as well as for economy.

Estimate of cost of proposed building, according to plans and specifications submitted by commission.

70,200 cubic yards of excavation, at 75 cents	\$52,650 00
23,957 feet of foundations, at 60 cents	14,374 20
Sub-basement floor	23,000 00
Granite piers	16,490 00
6,628,000 brick work, (exclusive floor arching, \$25)	165,700 00
Templates	13,800 00
Steps, platforms, and pavements	10,651 00
Asphaltum pavement	8,000 00
Cast-iron, viz: columns, pilasters, and stairways	156,183 00
Skylights	4,432 00
Attic windows	7,120 00
Hyatt lights	30,000 00
Cast-iron door frames	19,630 00
Window frames and finish	82,800 00
Sub-bases or skirting	14,500 00
Wrought-iron doors	45,456 00
Wrought-iron sash	20,700 00
Wrought-iron shutters	103,500 00
Wrought-iron partitions	137,045 00
Wrought-iron furring	34,830 00
394,472 superficial feet fire-proof flooring, inclusive girders, beams, arches, and roofing, at \$1 60	634,155 20
Marble work	999,500 00
Glazing	75,704 00
Carpentry—staging, centring, &c	100,000 00
Plastering	54,500 00
Plumbing	15,000 00
Painting	25,000 00
Hoists, tubes, &c	25,000 00
Gas-pipes	5,000 00
Heating apparatus, 3,200,000, at 3 cents	96,000 00
	2,987,720 40
Add 15 per cent. for contingencies	448,158 06
Total	3,435,878 46

Estimate of cost of a first-class fire-proof building of equal capacity with the proposed plans the exterior to be of marble and of the same design as submitted by the commission.

70,200 cubic yards of excavation, at 75 cents	\$52,650 00
2,300 yards of concrete for sub-basement floor throughout, at \$10	23,000 00
224,798 cubic feet of masonry for foundations, sub-basement, and basement walls and piers, at 40 cents per cubic foot	89,919 20
Marble work for entire exterior, viz :	
Six corner pavilions	192,842 60
4 center pavilions	349,248 90
Body of building	314,821 82
Ashlar—court-yard	49,822 20
Tiling	67,992 00
Steps and platforms, granite	10,651 30
Inside steps	10,000 00
394,472 superficial feet fire-proof flooring and roofing, inclusive, girders, beams, segmental brick arches, concrete haunches, floor strips and hard-wood flooring, at \$1	394,472 00
Iron work other than beams and girders :	
Columns, pilasters, and stairways	156,183 00
Skylights	4,432 00
Attic windows	7,120 00
Hyatt lights for basement	30,000 00
Door frames for inside doors	19,630 00
Box window frames and iron finish	82,800 00
Skirting, (or marble)	14,500 00
4 176,900 bricks for backing and partitions, at \$20	83,538 00
Windows and doors, viz , sash to be of mahogany, with British plate glass, and doors to be of mahogany	67,895 00
Plumbing	15,000 00
Plastering	36,000 00
Painting	25,000 00
Heating apparatus, 3,210,000, at 2 $\frac{1}{4}$ cents	72,231 75
Add for contingencies 15 per cent	325,462 45
Total cost of marble building	<u>2,495,212 22</u>

Estimate of cost of a first-class fire-proof building of equal capacity with the proposed plans, the exterior to be of the best granite and of the same design as submitted by the commission.

70,200 cubic yards of excavation, at 75 cents	52,650 00
2,300 yards concrete for sub-basement	23,000 00
224,798 cubic feet of masonry for foundations, sub-basement, and basement walls and piers, at 40 cents per cubic foot	89,919 20
Granite work for exterior, viz :	
Six corner pavilions	135,461 10
Four center pavilions	243,148 90
Body of building	198,225 00
Court-yard, ashler	35,415 70
Steps and platforms	10,651 30
Inside steps and marble tiling	77,992 00
394,472 superficial feet of fire-proof flooring and roofing, inclusive girders, beams, segmental brick arches, concrete haunches, floor strips, and hard-wood flooring, at \$1	\$394,472 00
Iron work other than beams and girders, viz :	
Columns, pilasters, and stairways	156,183 00
Skylights	4,432 00
Attic windows	7,120 00
Hyatt lights for basement	30,000 00
Door frames for inside doors	19,630 00
Box window frames and inside finish	82,800 00
Skirting	14,500 00
4,176,900 bricks for backing and partitions, at \$20	83,538 00
Windows and door-sash, to be of mahogany, with British plate-glass ; doors of mahogany	67,895 00
Plumbing	15,000 00
Plastering	36,000 00

Painting	\$25,000 00
Heating apparatus, 3,210,300, at 2¼ cents	72,231 75
	1,875,265 27
Add for contingencies 15 per cent	281,289 79
Total cost of granite building	2,156,555 06

A. B. MULLETT,
Supervising Architect.

Hon. HUGH McCULLOCH,
Secretary of the Treasury.

Estimate of cost of custom-house and post office, New York, in accordance with plans, description, and specifications submitted by commission. (Furnished by A. B. Mullett. Made January 12, 1870.)

Excavation, sheathing, and concrete	\$160,000 00
Brickwork in walls, floors, and concrete haunches of floors	168,762 32
Masonry, including retaining wall, and foundations and piers to level of 1st story	456,070 00
Granite sidewalk and steps	38,600 00
Marble work	1,400,931 50
Plastering, plain and ornamental	82,550 00
Marble mantles, tiling, interior paving, asphalte, and stairways	243,989 00
Carpentry	147,888 00
Slating and copper work	38,895 00
Heating, ventilation, and hoistways	117,500 00
Plumbing and gas piping	21,320 00
Painting and glazing	40,866 00
Iron work	1,850,127 00
Superintendence, contingencies	715,124 82
	5,482,623 64

Estimate of cost of the court-house and post office, New York City, in accordance with plans prepared by the Supervising Architect of the Treasury Department, December 30, 1869. (Furnished by A. B. Mullett.)

SUMMARY.

Amount already expended and required to complete the excavation, sheathing, concreting, and retaining wall, and expended to date in the purchase of machinery and plank	\$300,500 00
Iron work	725,281 40
Brick masonry, &c.	252,829 00
Stone masonry	1,505,089 65
Stairways	46,800 00
Slating and copper work of roofs	34,694 00
Plastering	67,821 00
Marble mantels and tiling	116,780 00
Elevators	\$15,000 00
Heating and ventilation	100,000 00
Carpentry and joinery	115,267 00
Plumbing and gas work	25,450 00
Plate-glass, glazing, and painting	54,565 20
Superintendence and contingencies	504,011 58
Total	3,864,088 83

WASHINGTON, D. C., March 28, 1870.

JOHN GARDNER sworn and examined.

By the CHAIRMAN:

Question. State your residence and occupation.—Answer. I reside in Boston. I am a manufacturer, and am doing a general business.

Q. Are you acquainted with or interested in any granite quarry in Massachusetts?—A. I am acquainted with the Rockport granite quarry, and am director in that company.

Q. Are you acquainted with the work that is being done in Boston on the building for the post office and the sub-treasury?—A. I see it every day.

Q. Will you give the committee, as succinctly as you can, a statement of what you know in reference to the government making any contract for the supply of granite for that building, in connection with the Rockport Company, or any other company?—A. Being a director of the Rockport Company, our agent, Mr. Stimson, of course submitted every matter of business to us. We were called together to consider a letter from one Gridley J. F. Bryant, superintendent, of Boston, calling himself, also, "resident architect," requesting bids for certain work to be done. (Witness submitted Mr. Bryant's letter and the reply of the Rockport Company:)

"OFFICE OF SUPERINTENDENT OF CONSTRUCTION

"POST OFFICE AND SUB-TREASURY BUILDING,

"Boston, April 28, 1869.

"SIR: The government are about putting in a foundation for the post office and sub-treasury building at Boston. They have met with difficulties heretofore in regard to being delayed by contractors, in not being able to furnish their materials. When contractors have failed to perform their contracts, suit on the bond is an inadequate remedy, because of delays in carrying on the work.

"They have learned that the Rockport Granite Company's quarry is of sufficient capability for their purpose. I desire, therefore, that the Rockport Granite Company should make proposals, in writing, at what rate they will lease their quarry to the United States per ton, bankage, or the right to take out stone from the quarry, of such sizes and in such quantities as they may need, the quarry to be worked in a good and workmanlike manner; in regard to the removal of grout, not being obliged to move it more than half a mile; and wharfage for loading the stone, in at least nine feet of water, sufficient to accommodate not less than seven vessels, of one hundred tons each, at a time, giving bankage and wharfage separate items; also, at what price per cubic foot they will deliver at the building site of the post office and sub-treasury, on Devonshire street, in Boston, stone of such sizes and in such quantities as the superintending architect may direct, not to exceed twenty cubic feet in a single stone, and also at what price per additional cubic foot when stone are ordered above twenty cubic feet. Payments to be made monthly of seventy-five per cent. of stone delivered, the remaining twenty-five per cent. to be paid when the required amount is furnished, with forfeiture of twenty-five per cent. on any failure to deliver the stone promptly, when required. Upon lease of the quarry, payments to be made quarterly for the amount of bankage and wharfage upon stone actually used. Proposals to be made in the alternative, and, if accepted, to be a contract, with penalty in forfeiture of ten thousand dollars in failure to comply.

"As the work is desired to go on with promptness, the earliest possible reply is desired.

"Very respectfully, your obedient servant,

"GRIDLEY J. F. BRYANT,

"Superintendent.

"JOHN STIMSON, Esq.,

"Agent Rockport Granite Company, Boston."

"ROCKPORT, MASS., May 11, 1869.

"SIR: Your letter of April 28, inviting proposals for stone for the foundation for the proposed new post office and sub-treasury building in Boston, has been received, and in reply will say: We will lease to the United States government a stone quarry suitable to quarry the foundation stone from for the proposed building, and furnish sufficient wharves to load the stone on board the vessel from, with a good chance to get rid of the grout, all within the distance required by your letter referred to above.

"The quarry is now being worked by us, and is in good working order; good roads, with a gradual descent from the quarry to the wharves. There is about twenty acres of quarry land, which we propose to lease to the government; and the wharves are the most convenient to freight stone from there is on Cape Ann, and we are now paying from ten to twenty-five cents a ton less freight money on stone from these wharves than is being paid from any other wharves on the cape. We will lease the quarry for fifteen cents a ton bankage, and five cents a ton wharfage. We will deliver the stone at the building site for forty cents a

cubic foot, for those containing up to twenty cubic feet each, and one-half a cent a foot additional for those which contain more than twenty cubic feet each.

“JOHN STIMSON,

“*Treasurer of the Rockport Granite Company.*

“GRIDLEY J. F. BRYANT,

“*Superintendent, Boston, Mass.*”

Subsequent to this we received notice that our proposition had been accepted, and the following paper was sent to us to execute :

“*Lease and contract between the United States and the Rockport Granite Company, of Rockport, Essex County, Massachusetts.*

“This indenture of lease and contract, made and entered into by and between Gridley J. F. Bryant, superintending architect of the Treasury Department, of Boston, Massachusetts, for and in behalf of the United States of America of the first part, and the Rockport Granite Company, of the county of Essex, in said State, to which was awarded the lease of granite quarry and a contract for taking out and finishing stone therefrom upon their acceptance by their agent, John Stimson, of proposals invited by Gridley J. F. Bryant, by letter dated April 28, 1869, of the second part, witnesseth: That the party of the second part, their successors and assigns, do hereby lease, demise, and let all their granite quarry situated in said Rockport, known as the quarry of the Rockport Granite Company, containing twenty acres, more or less, however the same may be described and bounded, together with their blacksmith shops, sheds, tool-houses, magazines for powder, and engines and pumps for clearing and working said quarry, as they are now or have heretofore been used in connection with the said quarry, together with a wharf and wharfage for loading stones in vessels drawing at least nine feet of water, sufficient to accommodate not less than seven vessels of a hundred tons each at a time, and the roads and approaches to said wharf and quarry, to the sole and exclusive control and use, profit, and advantage of the party of the first part, with the right of taking out such granite and stone in such sizes, of such kind, and in such quantity as the said party of the first part may direct to be taken out during the continuance of this lease; to have and to hold to the use of said party of the first part said quarry, buildings, wharf, and wharfage, roads and approaches, engines and machinery for the term of one year, with the right of renewal of this lease for a time not exceeding five years, or for such less time as the party of the first part may elect, upon the same terms and conditions by the party of the first part. And the said party of the first part, acting for and in behalf of the United States, doth covenant, promise, and agree to pay, or cause to be paid, unto the party of the second part, their successors and assigns, as and for rent of said quarry, buildings, wharf and wharves, and wharfage, engines and machinery, roads and approaches, the sum of fifteen cents per ton of eleven cubic feet for each ton of stone which may be taken out by the agents of the party of the first part during said term, or extended term, of this lease, and also five cents per ton as and for wharfage for each ton of stone so by said party of the first part shipped from said wharf so leased during said term; said payments to be made, quarter-yearly, on the first days of July, October, January, and April, in the lawful money of the United States. And the said party of the first part doth hereby covenant, promise, and agree to and with said party of the second part, their successors and assigns, that during said term said quarry shall be worked in a good and workmanlike manner, and the roads and approaches thereto, and the buildings thereon, kept in the same repair as they now are or may be put in by the party of the second part, to be returned at the expiration of said term or said extended term, reasonable use, wear, and tear, quantity of stone removed, fire and other unavoidable casualties excepted, and the grout made during said term to be removed by the party of the first part to such place as shall be directed by the party of the second part, not exceeding one-half mile, provided no such place shall be designated which shall cause the removal of said grout over any elevation higher than the elevation of the roads between said quarry and said wharves. And the party of the second part doth covenant and agree with the party of the first part that they are lawfully seized in fee of the land, quarry, and wharves hereinbefore mentioned, and they will, and their successors and assigns shall, maintain said party of the first part in possession and use of said leased property during the term and extended term of the same against the interference and hindrance of any party whatever. And the said party of the second part, their successors and assigns, further covenant and agree with the party of the first part that said land, quarry, wharves, and wharfage are to the extent and capacity hereinabove set forth and specified. And the said party of the second part, their successors and assigns, further covenant and agree with the party of the first part that, in case of a failure in fact or performance of any one or either of the covenants made or to be performed by said party of the second part, this lease and contract shall become void in all its parts and conditions as to said party of the first part, and the forfeitures hereinafter set forth shall be incurred because thereof in like manner and to the same extent as hereinafter set forth as and for liquidated damages. And it is further covenanted and agreed by the party of the second part, its successors and assigns, that this lease shall be operative, and the party of the first part shall have full

possession and use of said quarry, buildings, wharves, roads, and approaches, as above specified, from and after seven days from the unsealing of this lease and contract. And it is further covenanted and agreed by the said party of the first part that they will take out or cause to be taken out, under this lease, at least fifteen thousand tons of stone yearly during said term or extended term, or pay bankage and wharfage, as if said amounts were so taken out. And the party of the second part, their successors and assigns, do further covenant, agree, and promise to and with the party of the first part that the party of the second part will take out from said quarry and deliver at the site of the building being erected for the post office and sub-treasury at Boston, at such times as may be directed, stones of such sizes and dimensions as the party of the first part may direct. And the party of the second part doth covenant and agree that, while working said quarry and taking out the stone hereinabove specified, the party of the second part will work said quarry in compliance with and in performance of all the covenants of the party of the first part to be performed, keeping the buildings, tools, wharves, and roads in repair, as hereinbefore covenanted. And the party of the first part covenants and agrees to pay, or cause to be paid, to the party of the second part, its successors and assigns, the sum of forty cents per cubic foot for each cubic foot of stone so delivered as above contracted, when the dimensions do not exceed twenty cubic feet in each stone, with half cent additional for every cubic foot in any single stone beyond said twenty feet each, in good and lawful money of the United States, seventy-five per cent. of the price of the stone delivered in each month to be paid monthly, the remaining twenty-five per cent. when the whole amount required is furnished, and the approval and acceptance of the whole by the superintendent given, which said amount of twenty-five per cent. shall be forfeited by the party of the second part in case of non-performance of this contract to the entire satisfaction of said superintendent. And it is further covenanted and agreed by and between the parties to this contract, that nothing herein contained shall prevent the party of the first part from taking out stone from said quarry while said party of the second part is engaged in furnishing stone therefrom according to the provisions of this contract. It is further covenanted and agreed by and between the parties to this contract, that if from any cause whatever the said party of the second part should fail in required promptness in giving possession of said property, or any part thereof, or in delivering said stone by or within the time or times specified above, it shall become the duty of the said superintendent, and he shall be, and hereby is, authorized and empowered, after eight days' due notice thereof in writing left at the shop, office, or usual place of abode of the said party of the second part, or with his agent, without effect, to purchase and supply any deficiency in said delivery, or said occupancy, caused by the delinquency of said party of the second part; and the actual cost thereof, together with fifteen per cent. thereon, shall be deducted from any money due or owing to the said party of the second part on account of this contract; and if that amount be not due said party, then the bondsmen are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States; or the said party of the first part may elect that, if the party of the second part should fail to furnish said stone, or give occupancy of property as aforesaid, by or within the time or times specified above, he shall forfeit the sum of one hundred dollars per diem for each and every day thereafter until the final completion of delivery or term of lease, which sum shall be deducted from any moneys which may be due said party; and if that amount be not due said party, then the bondsmen are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States.

"It is further covenanted and agreed between the parties to this contract, that the party of the second part shall execute with two or more good and sufficient sureties a bond to the United States in the sum of ten thousand dollars, conditioned for the faithful performance of this contract, and the agreements and covenants here made by the party of the second part.

"It is also covenanted and understood that no member of Congress, or other person whose name is not at this time disclosed, shall be admitted to any interest in this contract; and it is further covenanted and agreed that this contract shall not be assigned, except by consent of the Secretary of the Treasury; and that any assignment thereof, except as aforesaid, will be a forfeiture of the same. It is further covenanted and agreed by and between the parties hereto that this contract shall be valid and binding when approved by the Secretary of the Treasury and not otherwise, and no departure from its conditions shall be made without his written consent.

"In witness whereof the parties hereunto subscribed their names and affixed their seals this _____, A. D. eighteen hundred and sixty-nine.

" _____
" _____

"Witness to the signature of the superintending architect:

" _____

"Witness to the signature of the contractor and lessee:

" _____

Q. State how many quarries your company owns.—A. They own four, I think.

Q. What was the condition of the quarry which you proposed to lease to the government?—A. It was in as good order as any quarry could be.

Q. How did it compare with the Cape Ann quarry?—A. You could hardly call that a quarry at all. It was all covered up. I went over at the request of Mr. Boutwell, and took with me one of the best quarrymen I know. There was no quarry to be seen. They were then at work opening it, digging out boulders, and carrying off dirt and debris. It was about a half mile from the wharf, while ours was only a quarter of a mile.

Q. How much more, in your opinion, would it cost to take stone from that quarry, in the condition it was, and deliver it in Boston, than it would cost to deliver it from your quarry?—A. I should think it would cost twenty cents a foot more. Our quarry was on the Boston side of the cape, and, as I have said, within a quarter of a mile of the wharf. The Cape Ann quarry was on the other side, and, of course, very much exposed in bad weather, so that it would be difficult for a vessel to go in.

Q. What was the character of the granite of your quarry?—A. It was as good as any that comes into Boston. The Boston Morning Post building was built from it. It is better granite than the Concord granite, not as light color, harder, and ten years after being put into a building will look better.

Q. How much granite is there in the quarry you proposed to lease?—A. Enough to last for twenty years.

Q. Does it contain granite suitable for the superstructure of that building?—A. It does. The quality is a great deal better than that of the Cape Ann quarry, so far as stone has been quarried in the latter. The Cape Ann quarry was opened and worked some years ago, and when they got down to where it was then worked, the quality was pretty good; but it was not opened in such a way that you could get out any great amount of granite without great expense. The granite from the Rockport quarry is considered the best that comes into Boston.

Q. Prior to receiving this letter from Mr. Bryant, had you any knowledge or information with regard to the government wanting stone?—A. Yes, sir. Our agent first got intelligence from Mr. French, in going backward and forward with him. He told him that his quarry was to be worked by the government. After learning what was being done, I considered it a fraud upon the government, and determined to stop it if I could. I telegraphed to Mr. Boutwell that I had ascertained such to be the fact. I considered the granite then available in that quarry as only fit for paving stone, and I did not believe the government would ever go to work upon that quarry. I also had a conversation about that time with Mr. Burt, the postmaster at Boston.

Q. Did you learn from Mr. Burt whether the government intended to go on and run that quarry?—A. He said they were going to do it.

Q. That was before this first proposition was made to you?—A. It was. I then telegraphed to Mr. Boutwell. I asked him to stop any contract until he should receive my letter next day. Some time afterward, it may have been two or three weeks, I received the letter containing the proposition which I have turned over to the committee.

Q. Did you or your company ever withdraw your proposal?—A. No, sir; the company never withdrew their proposal. On the reception of the contract sent for us to execute, we returned the following letter:

“ BOSTON, May 26, 1869.

“ MY DEAR SIR: Your letter of the 24th instant, inclosing a draught of a proposed contract and lease between the United States and the Rockport Granite Company, has been received.

“ On a careful examination of the proposed contract and lease I find that my proposition of the 11th May has been misunderstood in several important particulars.

“ First. Your letter of April 28 related solely to the foundation for the post office and sub-treasury building, and my proposal was for the furnishing of such foundation stone simply, and the prices stated by me were upon that basis. The proposed contract gives you the right to take out such stone, in such sizes, in such kinds, and in such quantity as you may require, without any reference to the fact that the stone is to be such as is suitable for foundations. Under the proposed contract we might be compelled to furnish the entire superstructure at foundation stone prices.

“ Second. The Rockport Granite Company have several distinct quarries at Rockport in good working order, and a large quantity of personal property, tools, machinery, engines, vessels, carts, oxen, &c., also dwelling-houses, stables, &c., and are doing a large and increasing business, which they have no intention of giving up. The quarries owned by the company are capable of providing one hundred thousand tons of stone per annum, and we have ample facilities for quarrying and delivering that amount. We could not, therefore, consent to lease all our quarries to the government for so inadequate a sum as that mentioned in the proposed contract, as this sum might not amount, under the obligations which the government proposes to assume, to more than \$3,000 a year, which would be but one and a half per cent. on the capital of the company. The twenty acres which we proposed to lease are but a part of our lands. They are known as the Oregon quarry and the Hale and Knowlton quarry, and are better adapted than any on the cape for the furnishing foundation stone.

“ The proposal then being to lease twenty acres, and to furnish sufficient wharf room, and

the proposed contract being to lease all the land of the company and wharves for seven vessels at once, it is evident that the proposed contract and my proposition are widely different.

"Third. My proposition was to lease the twenty acres, and did not include blacksmith shops, sheds, tool-houses, magazines for powder, engine and pump for cleaning and working the quarry, and other machinery, all of which are included in the proposed contract. In case of a lease of quarry-land, the lessee pays bankage and wharfage on the value of a rent or royalty, and furnishes everything necessary to get the stone out.

"Fourth. The draughts of the contract contained a provision that contemplates two gangs of men working at the same quarry at the same time, under different heads. This I consider impracticable, particularly if the men to be employed by the United States are to be paid ten hours' wages for eight hours' work.

"Fifth. The clause in regard to the grout we propose should read as follows: 'And the grout made during said term to be removed by the party of the first part, and shall be thrown over such part of the breakwater on the premises belonging to the party of the second part as they shall direct, such place not to exceed one half mile from the place whence such grout is taken.' We propose this alteration because the breakwater, although lower than the greater part of the wharf room, is higher than that part of the wharf room which runs from the shore-end of the breakwater to the wharf. The breakwater is the most convenient place to put the grout, and there is a good road leading to the breakwater and upon it.

"Sixth. The corporate name of the company is 'The Rockport Granite Company of Massachusetts.' Its quarries are in Rockport, Essex County, Massachusetts.

"To prevent further misapprehensions we are willing to make any of the following propositions for foundation stone for the post office and sub-treasury building:

"First. To lease to the government the Oregon and Hale and Knowlton quarries, containing about twenty acres, with sufficient wharves for loading the stone, for fifteen cents a ton bankage, and five cents a ton wharfage, the government to be at the expense of getting the stone out and furnishing whatever may be necessary for this purpose and for transporting the stone. The quarries to be worked in a proper and workmanlike manner, and the grout to be put over the breakwater, as proposed above in my fifth objection, and at least fifteen thousand tons of stone to be got out annually.

"Second. Or we will agree to lease said Oregon and Hale and Knowlton quarries, we to get the stone out and to deliver it at the proposed building site in Boston as fast as it can be laid; we to receive the above-mentioned bankage and wharfage, and also forty cents a cubic foot for those stones containing up to twenty cubic feet each, and one half cent a foot additional for each stone which contains more than twenty cubic feet; to have the right to the exclusive possession of the quarries so long as we furnish the stone as fast as it can be laid. In case of our failure to deliver the stone as fast as it can be laid, the government to have the right to take possession and to get out the stone at its own expense, paying the above rates for bankage and wharfage.

"Third. Or we will agree to deliver the foundation stone at the site of the proposed building at the rates above mentioned per cubic foot, the government to have no lease of the quarries.

"Any of the above propositions we are ready and abundantly able to carry out, and are willing to give bonds to any reasonable amount, with all proper guarantees.

"Respectfully yours,

"JOHN STIMSON,

"Treasurer of the Rockport Granite Company.

"To GRIDLEY J. F. BRYANT, Esq.,

"Superintendent of Construction of the Post Office and Sub-treasury Building."

The matter remained for some time, when we received another proposition, dated June 18, 1869:

"OFFICE OF SUPERINTENDENT OF CONSTRUCTION

"POST OFFICE AND SUB-TREASURY BUILDING,

"Boston, June 18, 1869.

"SIR: The government is desirous of leasing for a term of one year, with the privilege of four annual renewals thereof on the same terms, a quarry of light-colored granite, free from iron or other coloring matter, suitable for the foundation and superstructure of buildings similar in character to the proposed new post office and sub-treasury building to be erected in this city, to be capable of yielding, at easy access, not less than one hundred thousand tons of granite, and tested as to capacity and quality of stone, and to be in proper working order and fully provided with engines and engine-houses, pumps, derricks, blacksmith shops, sheds, tool-houses, magazines for powder, stables, and all other usual and necessary adjuncts to a first-class quarry, tools alone excepted. The machinery, &c., aforesaid to be sufficient in amount and capacity for the successful working thereof, to the carrying capacity of seven vessels, of one hundred tons each; and in connection with said quarry the sole and exclusive use of wharves and wharfage sufficient to accommodate at one time at least seven vessels of one hundred tons each, drawing nine feet of water. The government to quarry or cause to be quarried not less than fifteen thousand tons of stone per annum, or in default

thereof to pay bankage and wharfage, as if such an amount had been quarried, and to work said quarry during the period of said lease in a good and workmanlike manner, removing the grout to such point as may be agreed on, provided it shall not be removed more than half a mile, or over an elevation higher than the road to the wharf. Proposals to state the price per ton bankage, and also the price per ton wharfage, which is to be in full of all claims whatever, the amount of rent being determined by the bankage and wharfage of the stone actually taken out by the United States, its agents, or employes.

"The government desires, in addition, to procure proposals for the quarrying from the quarry so leased, and delivering at the site of the new post office and sub-treasury building, in this city, fifteen thousand tons (more or less) of stone for the foundation of the post office and sub-treasury building, the price to be per cubic foot for stone not above twenty cubic feet each, with the additional price per cubic foot for stone above that size, and to include quarrying and delivery at the site of the building, and to be in excess of the bankage and wharfage aforesaid. The government reserves the right to work the quarry at the same time for any other purpose.

"Understanding that your quarry will meet these requirements, and that you are willing to lease the same, I respectfully solicit a sealed proposal from you for leasing the same, and for delivering the stone as aforesaid; the proposal to be submitted by twelve o'clock m. on the twenty-third day of June, 1869, when they will be opened and a decision made.

"A penal bond in the sum of ten thousand dollars to accompany your proposal, conditioned that a lease and contract in accordance with this letter will be executed by you.

"A blank form of the lease and contract to be executed by the successful bidder can be seen at the office of the superintendent of the new post office and sub-treasury building, at 55 Devonshire street, in this city. The department reserves the right to reject any or all proposals submitted, or to accept the lease without accepting the proposal to quarry and deliver the stone for the foundation. In case of an acceptance by the government of any proposal to lease, the quarry, buildings, wharves, and equipments required by this letter must be surrendered to the government in proper working order within seven days from the signing of the lease.

"Very respectfully,

"GRIDLEY J. F. BRYANT,

"Superintendent,

"Per W.

"JOHN STIMSON,

"*Treasurer of the Rockport Granite Company.*"

After that I saw Mr. Boutwell, and consulted him about it. I went to Worcester to see him and let him know what was going on. These parties evidently did not want any reply to this second proposal, and they, therefore, proposed to lease our property, engines, stock, and machinery, except oxen and tools, and everything. To this second proposal we sent the following reply:

"BOSTON, June 22, 1869.

"SIR: Your letter of the 18th instant has been received. In reply to it I have to say that I am prepared to make the following offer, viz: To lease within the time specified the quarries known as the 'Oregon' quarry and the 'Hall and Knowlton' quarry at Rockport, containing about twenty acres, together with an engine prepared for twisting and pumping; a four-inch pump, with a sufficient quantity of pipe for pumping; two derricks; blacksmith's shop and forge; a powder magazine; sufficient barn room and sufficient wharfage.

"The quarry is in good working order, with no rubbish to be removed, and within a third of a mile of the wharf, and the engine, pump, derricks, &c., are in good order.

"I will lease the above at the rate of thirty cents a ton bankage, and five cents a ton wharfage; the government to get out at least fifteen thousand tons a year, and the grout to be thrown over the breakwater; the quarries to be worked in a workmanlike manner, and to be returned at the expiration of the lease, together with the engine, pump, derricks, &c., in as good order as when received, reasonable use, wear, and tear, quantity of stone removed, fire, and other unavoidable casualties excepted.

"I will also agree to lease said 'Oregon' and 'Hall and Knowlton' quarries—we to get the stone out and to deliver it at the proposed building site in Boston as it may be required; we to receive the above-mentioned bankage and wharfage, and also forty cents a cubic foot for those stone containing up to twenty cubic feet each, and one-half a cent additional for each stone which contains more than twenty cubic feet; we to have the right to the exclusive possession of the quarries so long as we furnish the stone as fast as required. In case of our failure to deliver the stone as fast as required, the government to have the right to take possession, and to get out the stone at its own expense, paying the above rates for bankage and wharfage.

"Either of the above propositions I am ready and abundantly able to carry out, and am willing to give bonds to any reasonable amount, with all proper guarantee. The above quarries which I propose to lease are also suitable for furnishing the upper structure of the

proposed building, and if leased to the government could be used for that purpose. Stone can be freighted from the wharves of the company from ten to twenty-five cents a ton cheaper than from other wharves on the cape.

"Very respectfully, yours,

"JOHN STIMSON,

"*Treasurer of the Rockport Granite Company.*

"G. J. F. BRYANT, Esq.,

"*Superintendent.*

"Witness:

"EDW. T. GRAY."

The penal bond will be sent in this afternoon as soon as can be obtained.

The committee will note that there is a great deal more in this second proposition of ours than was contained in the first, for the reason that the invitation was only for the foundation of the building. Our second proposal included getting out stone for the whole building. Our second proposal was at the rate of forty cents per cubic foot for the superstructure, and half a cent a foot where the blocks contained more than twenty cubic feet. You will notice the present contract gives one cent a foot for these large blocks. Supposing a block to contain a hundred cubic feet, therefore the additional price in our bid would be fifty cents a foot, while the contract gives these parties one dollar a foot additional.

By Mr. TWICHELL:

Q. State what you mean in your proposal by "bankage."—A. It is stone in the bank, in the quarry itself, cut for measurement.

Q. That has nothing to do with quarrying?—A. Not at all; it is a separate thing. You have got to uncover the stone, but that is not quarrying.

Q. If you sell stone at so much bankage, you have got to do everything else except to get out the stone?—A. Yes, sir. If we have a quarry covered up with dirt, grout, and boulders, and a man leases the quarry, paying ten cents a ton bankage, he has got to do that work himself. It is an expense to him in addition to what he pays for bankage. He must uncover the quarry and carry the grout away before he can get at the stone.

Q. Now, if you furnish the stone at the building for forty cents, were you to receive extra pay for bankage and wharfage, or do you do it all for forty cents?—A. If we furnish the stone, the government pays nothing for bankage or wharfage, with the condition that if we do not deliver it as fast as it is wanted, then the government leases our quarry, works it itself, and pays the wharfage and bankage.

Q. On your first proposition the government did not wish to commit itself for more than fifteen thousand tons for one year?—A. They did not. That was what we asked for. We asked them to consider themselves bound for that much.

Q. In your second proposition, however, you held them to get out a certain amount of stone every year?—A. Yes, sir. We furnished the stone at forty cents, removing the rubbish ourselves and getting nothing for bankage or wharfage; or, in case we failed to provide it fast enough, the quarry is turned over to the government, under the conditions stated.

By the CHAIRMAN:

Q. Your last proposition was intended to embrace stone for the superstructure of the whole building; would you be willing to furnish stone for the superstructure of that building at the rates contained in your last proposal?—A. I have no doubt that the company would. I should have to call a meeting of the board of directors, of course, before I could answer that question definitely.

Q. State whether you offered to give security to furnish the stone.—A. I told Mr. Boutwell that I would give security to the extent of a million of dollars, as good as five-twenty bonds, and that we were prepared to get out stone a great deal faster than it was possible for them to use.

Q. Had this Cape Ann quarry ever been used to any extent?—A. It was used some years ago, but it had been lying dormant and covered up for a long time. When I was there they were not working the old quarry at all. They were opening new places. I think, however, they got out stone from both the old opening and the new; but I have not been there recently myself.

Q. After you declined to execute the contract they sent you in response to your first proposition, did they immediately make a contract with Mr. French for this Cape Ann quarry?—A. I think not. I think it was some time afterward.

Q. Do you know why they did not?—A. I do not.

Q. Did you correspond with Mr. Boutwell immediately after that?—A. I do not know. I wrote a good many letters, and I understand they were all turned over to other parties.

By Mr. TWICHELL:

Q. Do I understand you to say that no opportunity was offered you to contract with the government at your own bid?—A. None whatever. The first offer made was accepted, and we should have gone into it if they had made out a contract in accordance with our bid;

but, instead of that, their contract proposed to lease our entire property, worth one-half a million of dollars, or would pay interest on that, if fully worked, which would have broken us all up, and of course we did not go into it. Our property was worth from fifty to eighty thousand dollars a year.

By Mr. FERRY:

Q. I understand you to say, in substance, this: That you proposed to furnish from this quarry of twenty acres, and deliver to the government as fast as they wanted it, stone for the basement, at an entire expense of forty cents per cubic foot, and that, on the other hand, if the government wanted to lease your quarry, if you did not furnish the stone fast enough, you were to lease these twenty acres to them at the price of twenty cents, bankage and wharfage, for the basement, the government to pay its own expenses of quarrying; that in your first proposal you proposed to furnish a guarantee of a million of dollars security that you would deliver the stone or lease the quarry on these terms?—A. Yes, sir; that is a correct statement, as per written proposition.

Q. And in the other proposition, accepting the government view as presented, you agreed to furnish the granite sufficient in quality and quantity both for the basement and the entire superstructure of the building, to the government for forty cents per cubic foot, and a half a cent a foot additional for blocks containing more than twenty cubic feet, and thirty-five cents for bankage and wharfage, with the alternative of leasing the entire quarry to the government to get out stone for the entire superstructure, they paying you thirty-five cents a ton bankage and wharfage?—A. Yes, sir.

By Mr. TWICHELL:

Q. In this verbal statement you mean, I suppose, to say that you agreed to do just what your written proposals presented to the committee stated, and nothing further?—A. Nothing further.

By the CHAIRMAN:

Q. What is stone-cutting at present worth per square foot?—A. I am not an expert. I do not know anything about that. I understand you can get it done from eighty cents to a dollar and a quarter.

By Mr. FITCH:

Q. When you speak of bankage and wharfage, you mean so much by the ton; and when you speak of delivering the stone at forty cents, you mean per cubic foot?—A. Yes, sir.

By Mr. VAN WYCK:

Q. You state that the contract sent you for execution covered your entire property. I do not see that it purports to cover more than twenty acres?—A. It says "more or less," and "the Rockport Granite Company," not the "Hale and Knowlton," and was understood by us to cover our entire property, except oxen and shops.

Q. Do I understand that your last proposal is to furnish the same quality of stone from the same quarry that your first proposal agreed to furnish at forty cents?—A. They are both from the same quarry, but the first is for the cellar or foundation, and the last includes for the superstructure. They refer to a different quality of stone. We agreed to furnish stone white, smooth, free from iron, and of the best quality suitable for the superstructure.

By Mr. TRIMBLE:

Q. Have you made any estimate as to what will be the cost of putting the Cape Ann quarry in the same condition in which yours is in?—A. I have not. Indeed it could never be in the same condition. It is a good deal further away from the wharf, and, of course, can never be as accessible, and the quarry itself was in such a wretched condition that I hear they are undertaking to open a new quarry, half a mile off, and to build a railroad to it. I wish to state that, as this thing is going on now, it would be far better for us, and the other quarries on the cape, to have got out the entire granite required for this building and made a present of it to the government. The effect of keeping men at work there for the government would be to demoralize the whole labor of Cape Ann. If the government employs men and pays them for ten hours a day for eight hours' work, the other laborers want to do the same thing. I am told that the government is working eighty or a hundred men at cutting stone on the ground at the Cape Ann quarry, paying them from \$4 to \$5 a day, and fifteen per cent. additional, as commission, instead of having the work done by the superficial foot, as is usual. I learn that there has been a strike among the men who are getting out quarry stone because too much labor is required of them, and the next thing we shall know will be that the quarrymen all over the cape will be on a strike, and insist on being allowed to work eight hours a day in place of eleven or twelve hours, which we now get from them, and so the process of demoralization will go on. I suppose there is no more able man than Mr. Stimson on this subject. He is in charge of our quarry. He has been in the business all his life, and gets more work out of his men than anybody else. He is in great trouble and agitation for fear of what may grow out of this condition of things.

Q. Can you tell the committee what your company would have contracted to dress the

stone required for this building for?—A. I have no doubt they would have done it for a dollar a superficial foot. I learn that there is a great deal of expense in the operation that is going on in cutting stone at the Cape Ann quarry. They can spend a great deal of labor in cutting this stone as smooth as marble without being of the slightest use for the purpose for which it is required. When you have cut it so that it presents a smooth surface for the exterior of the building, that is all that is wanted, and it is labor thrown away to go on cutting it as smooth as marble.

By Mr. TWICHELL:

Q. You are opposed, as I understand, to the government making any arrangement for doing this cutting by days' work?—A. I am certainly.

Q. Have you sent any one down there to look into this matter?—A. Mr. Sanborn, who is here present, went down on Friday last. I went down once, as I stated, at Mr. Boutwell's request, and reported to him in full. This was in June, I think, and before the contract was made, and before the receipt by us of the second circular.

By Mr. VAN WYCK:

Q. What is the price in Boston of foundation stone such as you proposed to furnish for forty cents a foot?—A. I don't know. I have not gone into the details.

Q. My object is to know whether the contract executed by the government is a fair price for that stone.—A. I presume it is pretty low. We thought our offer was low. I remember Mr. Sanborn remarking to me that he could see we were not going to get the contract, and that if he were us, he would bid so low that this Cape Ann quarry could not get it.

By Mr. TWICHELL:

Q. Let me ask you whether you were before the Committee on the Post Office and Post Roads when they were in Boston, or whether you knew that they were there?—A. I was not there, and so far as I know, no one connected with the company. I saw it stated in the papers that the committee was there, and I recollect that Alpheus Hardy wanted very much to go before the committee, but he was sick.

Q. What brought you here at the present time?—A. I have written several letters in regard to this matter lately. I supposed the matter was not finished. I did not know that the contract had been made. I wrote to Hon. Oakes Ames, a member of Congress from Massachusetts, and when he was in Boston I talked with him about this matter, and endeavored to post him up as to the facts.

By Mr. VAN WYCK:

Q. As I understand, it is conceded that the price agreed to be paid to the Cape Ann Company is for the delivery of this stone, and you state that it will cost the company a great deal to get their quarry in readiness. Will you tell us what advantage it is to the Cape Ann Company to have this contract?—A. The contract for cutting is a great deal more valuable to them than the contract for quarrying the stone. They get fifteen per cent. upon the entire cost of cutting.

Q. The profit of the company, then, is in cutting the stone and not quarrying. Now, suppose the government should choose to employ other parties to do the cutting, or send men there themselves to supervise it, so that the company will make nothing from that process, will they then make a profit or loss by getting out the stone?—A. I do not know. We could make something on ours at that rate, but it would not be any great job.

By Mr. FERRY:

Q. You spoke of the price of getting out the stone as being moderate, as I understand you. That price is thirty-nine and three-fourths cents per cubic foot, with twenty-five cents per ton bankage and wharfage, for the basement stone, and the price for that of the superstructure is fifty-five cents per cubic foot for blocks not exceeding twenty cubic feet, the government to pay twenty-five cents bankage and wharfage, while it was for forty cents in one case and fifty-five in the other, no other expense to be paid by the government; which of these do you consider the lowest?—A. Ours is a great deal the lowest. Our proposal was for half a cent a foot additional on blocks above twenty cubic feet, while theirs was one cent, which makes an enormous difference.

Q. Is there not a liability in quarrying stone for such a building to make a pretty large number of them exceeding the limit of twenty cubic feet?—A. I understand there is a great deal of cheating in this matter, but I am not an expert.

By Mr. TWICHELL:

Q. If the government sends a man like Mr. Sanborn to direct exactly what is to be done in respect to the size of the stone and the amount of labor required to be done, on which the commission of fifteen per cent. is paid, do you think that commission is a larger profit than you would want?—A. If the government sends men there to work they will not do two-thirds of a day's work, and if you turn a man off because he does not do a sufficient amount of work, all the rest will leave.

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By Mr. FITCH:

Q. What is the practice with reference to furnishing stone for large buildings? Is it the general custom to pay a percentage upon the cost of the labor as the profit of any individual?—A. I never heard of such a thing before. The usual way is for a practical stone-cutter, like Mr. Sanborn, to bid for the work, furnishing his own stone and putting them in.

By Mr. TWICHELL:

Q. Suppose the men do work faithfully, and that the government gets the full value of their work, is fifteen per cent., in your judgment, an excessive profit?—A. I should think it was. You can get a man for four or five dollars per day to superintend eighty or a hundred men thoroughly.

Q. Would you like to take a contract, furnishing your own men and your own wharf, to do this work for less than fifteen per cent. profit?—A. It would depend upon circumstances. I should be very glad to take the job under those circumstances of getting that stone out as it is gotten out, without a dollar of commission.

Q. Would you do it in your own quarry?—A. I cannot tell what we might do there.

By Mr. VAN WYCK:

Q. Do the Cape Ann quarry, in furnishing their stone to the government, open their quarry at their own expense?—A. I understand they get their stone out at their own expense.

Q. Do you understand that they receive anything for bankage or wharfage?—A. That I do not know. I have never seen their contract. I did not know until I came here that they had made a contract.

By Mr. TYNER:

Q. At the time you made your first bid for stone was the Cape Ann quarry open so that the quality of the stone could be judged?—A. No, sir; it was not open at all; it was all covered up.

Q. At the time you put in your second bid, did you know at what figures the Cape Ann Quarry Company had put in their first bids?—A. No, sir; I did not. I asked several times, but could get no answer. At the time the first bids were made the Cape Ann Quarry Company had done nothing, but they immediately went to work and put up blacksmith shops, sheds to cover stone-cutters, &c.

By Mr. HILL:

Q. Is there a general impression around Boston among people in regard to this contract as to whether there has been any unfairness in giving it out?—A. Every person whom I have heard speak of it has characterized it as unfair. Mr. O. E. Sheldon, who has next to the largest quarry at Concord, says it is shameful; and everybody whom I have heard speak of it characterizes it as a piece of favoritism.

By Mr. TWICHELL:

Q. Name any other parties who were stone-men.—A. I do not think of any others who were quarry-men. I heard Mr. Sears making the same remark. Mr. Sears is an architect on State street, who knows all about the origin of this thing. I do not think of anybody else at this moment, but I presume there are half a dozen. I had not laid this thing up; I supposed it was all over after I had done writing to Mr. Boutwell.

By Mr. VAN WYCK:

Q. In what particular did Mr. Sheldon pronounce this contract to be shameful?—A. In regard to the price of cutting, and in regard to giving the contract to this Cape Ann Company after it had been awarded to the Rockport Company, particularly in regard to giving this fifteen per cent. commission; and in regard to the whole contract, which will make the cutting, as I understand, cost from \$5 to \$7 a foot, when it could have been done without any difficulty for a dollar.

By Mr. TWICHELL:

Q. Was there any reason given for making the contract so that the government should not be bound except for fifteen thousand tons and for one year?—A. Not that I know of.

Q. Do you know, either from the government agent or otherwise, whether there was or not?—A. No, sir; I never saw the government agent. My only intercourse was in the shape of written communications. I may state that I have a letter from a man who went to see Mr. Mullett, and who says that Mr. Mullett stated the appropriation was so small that he would not buy granite only by the cart-load.

Q. Is the sketch you have made of the Oregon Rockport quarry, showing its relative position to the wharf, &c., a correct one?—A. I think so.

Q. State whether there were any buildings on these twenty acres at the time?—A. There were none at the time. The proposition did not call for any.

By the CHAIRMAN :

Q. Was there any combination to put up the price of granite in Boston and around there that you ever heard of?—A. No, sir.

Q. Did you, or anybody connected with your company, enter into such combination?—A. No, sir; never.

Q. It has been stated by one witness that the Secretary found there was a combination to put up the price of granite, and that he leased a quarry on more favorable terms than the material could otherwise have been obtained; is that true?—A. No, sir; it is not.

Q. Did the Secretary, to your knowledge, ever go in person to make any inspection of these quarries?—A. I think not.

Q. You never saw him in Boston on this subject?—A. No, sir.

Q. Did you ever hear of his being there, and of his making any inspection of this sort?—A. No, sir. He was there, but I did not want to go to see him; I did not want to bore him. I did see him in Worcester.

By Mr. TWICHELL :

Q. All that you mean to say about these combinations is that you did not know of them?—A. I should have heard of them if there had been any. I want to say, in regard to the motives I have for being interested in this matter, as the case now stands, the Rockport Company does not feel any interest in it, because we have already contracts, and we have no expectations of ever getting one to supply the material for this building. All we want is that the contract shall go out fairly and at a fair price, and that everybody shall have a chance to do the work.

WASHINGTON, *March 28, 1870.*

AMOS C. SANBORN sworn and examined.

By the CHAIRMAN :

Question. State your residence and occupation.—Answer. I reside at Cambridgeport, Massachusetts; I am a granite dealer.

Q. Are you acquainted with the quarry of the Cape Ann Granite Company?—A. Yes, sir.

Q. Have you visited that quarry recently?—A. I was there a few days ago. I used to visit it frequently. I have got a great many stones from that quarry.

Q. Are you familiar with the business of stone-cutting?—A. Yes, sir; that has been my business for forty-five years.

Q. How do you carry on your business?—A. We employ men, some by the day and some by the piece.

Q. Do you make contracts to furnish stone already dressed and cut for buildings?—A. Yes, sir.

Q. Have you done that for buildings in Boston?—A. Yes, sir.

Q. What is it worth to cut stone by the foot, as the stone is being cut for the Boston post office and sub-treasury, or cut suitable for such a building?—A. The estimate I have made is, for the first class of plain work it would be worth \$1 50 a foot; for the ornamental work there would, of course, be an addition to that. The work in cutting stone suitable for the basement, I think, would be worth about eighty-one cents, and the rough work, I should say, would be worth about forty-six cents.

Q. Have you, in connection with your examination of this work, made such inquiry of the men who are doing this cutting as to form a pretty correct opinion as to how much men cut on that job per day?—A. There is one man at work there who formerly worked for us, and I understood my partner to say, for I have not seen the man, that he cut about one foot a day.

Q. Were you at the quarry where they were cutting?—A. I was at the sheds where they were cutting.

Q. From the manner in which they were cutting stone, how much should you judge they cut a day?—A. I could not judge of that from the time I was there; they seemed to be pretty busy at work.

Q. Do you know anything about there being a strike of the quarry-men there?—A. I understood that the quarry-men knocked off, and that they had been obliged to discharge some of the stone cutters in consequence. One of the foremen told me they had had about a hundred men at work. They had only about eighty at that time.

Q. Why did the quarry-men knock off?—A. I understood it was because they did not want to work so many hours per day.

Q. Do you know what was paid to the stone-cutters per day?—A. Only from hearsay; I understood it was \$4, \$4 50, and \$5 per day.

Q. What proportion of the stone-quarry measure is lost or cut off in dressing?—A. That depends a little upon whether the stone is regular in shape or not. You may have to cut off a pretty large proportion of the quarry measurement. For instance, if a stone is to be cut large at one end and small at the other, they will measure the large end of it and square it at that.

Q. Taking stone whose quarry dimensions are twenty cubic feet, about how much will be cut off in dressing?—A. That depends something upon the shape it is to assume when it is worked. The ordinary calculation is to allow about one or two inches for working, because in splitting it is liable to run. Taking the average of such blocks as I suppose are put into this building, I should say that the loss would be about one-third. There may not be so much as that.

Q. Have you read the contract I have shown you, with the Cape Ann Granite Company for stone for the superstructure of the building?—A. I have just looked it over.

Q. What do you understand by the language that the government undertakes to pay the full expense and cost of working, dressing, boxing, and insuring the stone, with fifteen per cent. added?—A. It means that the government is to pay the whole expense, whatever it may be, after it is quarried, for getting the stone out and preparing them.

Q. Would that include everything after blasting, or would it include the blasting?—A. It means dressing the stone after they are quarried. If they made a contract to furnish the stock, that would be another thing; that would include quarrying.

Q. It would include handling the stone, the sheds in which they were dressed, the cost of the tools, and the entire expense.—A. Yes; the entire expense.

Q. How much would it cost the government, or you, to hire the man to superintend, say, a hundred stone-cutters?—A. You would have to pay him about \$5 a day.

Q. Do you know the foreman of the Cape Ann Granite Company?—A. I know Mr. Runnels very well.

Q. Do you know how much they pay him?—A. Only by rumor. They have two superintendents besides. I know one, by the name of Clement, who has been engaged on government work a good deal. I have been told that Mr. Runnels receives fifteen per cent. of the cost of the work for his services. The other men, I suppose, are paid by the day. I only know by rumor that Mr. Runnels receives this commission.

By Mr. TWICHELL:

Q. How many men were at work quarrying at the Cape Ann quarry when you were there?—A. I could not say. The men were on a strike. Not more than three or four were at work. I do not know how many had been at work before the strike. They said that, in consequence of the strike by the quarry-men, they had been obliged to let some of the cutters go.

Q. You do not understand there is any fifteen per cent. on the cost of quarrying?—A. I do not know anything about that.

By the CHAIRMAN:

Q. Did you ever know of any contract like this being let, the party paying the cost and expenses of dressing the stone and fifteen per cent. commission thereon?—A. I do not recollect that I ever did know of any such contract; I do not think I ever heard of any before.

Q. Would you like to take such a contract as that?—A. I should like very well to do it, if they would pay all the expenses and give me fifteen per cent.

Q. Do you know of any contract for cutting stone in which any percentage was paid as commission?—A. I do not know that I do. They are almost always let at so much in bulk, or so much by the foot. The contractor makes his own calculations, and the percentage he gets may be fifteen per cent. or twenty per cent., or may be nothing. My usual experience has been to contract for so much money by the job for the front of the building, or for whatever the work is. Sometimes we do it by the foot.

By Mr. TWICHELL:

Q. What profit do you usually estimate on your outlay?—A. We want to get twenty-five per cent. if we can; we ordinarily do not get more than ten.

By the CHAIRMAN:

Q. When you do, do you endeavor to get the full value of the labor of the men you employ?—A. We employ most of our men by the piece; we can then calculate that the stock costs a certain amount, and the cutting so much more.

Q. If a man contracts to deliver stone in the rough at the site of the building, is it for his interest that they should be dressed at his quarry?—A. He saves something in freight. Then, again, you cannot dress stone in Boston, unless you have a wharf. It requires a great deal of room, and, if you have to hire your wharf, it is very expensive. If he dresses his stone in Boston, however, he gets rid of the boxing, and saves to that extent.

Q. If a man has contracted to deliver stone in the rough that do not require boxing, and for his own convenience has them dressed in the quarry, would it belong to the other party to pay him for boxing to bring the dressed stone from the quarry?—A. If he contracted to do it he would have to pay it.

Q. Do you know where this stone is measured?—A. I suppose it is measured from the plan. I do not know.

Q. If the contract says quarry measure, however, it is measured in the quarry, is it not?—A. When we buy stone of a certain size we pay for whatever is required to work that size.

Q. If I make a contract with Gardiner to pay him so much a foot for quarry dimensions,

where do you measure that stone?—A. You may measure it if you please from the plan which the stone is gotten up by. It means whatever it requires to make that stone. That is the way I should measure it. I understand the expression quarry dimensions to mean the stone in the rough, large enough to cut the size required by the plan.

Q. I am buying stone for a house, and agree that I will pay so much per cubic foot for stone, quarry dimensions; what does that mean?—A. If it is going to be dressed, you will measure all that is required to cut out the stone called for. If no dimensions are given, you would measure the stone that it would require. If the stone is larger than what is needed, you would not be bound for the excess, not if the dimensions were given. If no dimensions are given, and the stone is a post, for instance, a foot square at one end and eleven inches at the other, it would be paid for as eleven inches square.

Q. Are there not two kinds of measures, one in the quarry and one in the building?—A. No, sir; not that I know of.

Q. Are you acquainted with the quarry of the Cape Ann Granite Company?—A. Yes, sir. I have obtained a great many stones there.

Q. What was the condition of it at the time this contract was made?—A. Very bad. The opening first made had been pretty well worked out, and it had been abandoned. They had not worked it for, I should think, two or three years.

Q. Are they now getting out stone from the same opening?—A. They are getting out some; and they have another quarry back on the hill, a new one. I did not go up to that.

Q. That was not open at the time Mr. Mullett made the contract with them, and therefore they could not tell what the character of that granite was?—A. No, sir.

Q. Could a stranger have told last spring the character of any of the granite of this quarry?—A. I do not think he could tell much about it if he had not been there before.

Q. What is the character of the Oregon quarry spoken of by Mr. Gardiner?—A. That is a good quarry. The granite is as good as any there is, and there is plenty of it.

Q. Was it in good condition to work?—A. Yes, sir. It was only a short distance from the wharf, not more than one-third or one-quarter of a mile, down hill, and a good road all the way. It is handier to the wharf than the Cape Ann quarry, and the transportation would cost least.

Q. What proportion of the stone in a building like this would be less than twenty cubic feet in dimensions?—A. I can form no idea, for I have never seen the plans. I have seen them getting out some quite large blocks, but the proportion of them to the smaller ones I do not know.

Q. What do you understand by increasing the price of the blocks above twenty cubic feet at the rate of a cent a foot, as mentioned in the contract?—A. every foot of excess increases the price of the entire block at that rate. If the stone has thirty cubic feet the price is increased ten cents a foot; if the stone has twenty-one cubic feet, the price is increased one cent a foot.

Q. I want to know whether in a large building, and a government building especially, a very large proportion of the stones do not contain more than twenty cubic feet.—A. I do not know that I could answer that question. There are a good many very large stones in the custom-house. There are a good many very large ones in the treasury building in Washington. This is a matter the architects can manage very much to suit themselves. They have it in their power to make it very hard or very easy for the contractor.

By Mr. TWICHELL:

Q. I understand that you are interested in the Rockport Granite Company, and that you have been down to the Cape Ann quarry, at the request of Mr. Gardiner, to look into this matter; that you have come to the conclusion that these kinds of contracts are injurious to your own stone quarry?—A. Yes, sir; injurious to us all. If the government works its men but eight hours a day, our men want to work the same time.

Q. You would like to have this contract broken up?—A. I think it ought to be broken up. I think it ought to be given to parties in the business, or who understand the business. It is a very curious thing that a man who is a lawyer should stoop to make a contract for stone-work, or that the contract should be given out to him, so long as there are plenty of men in the business, and who have worked at it all their lives. I have no personal interest in the matter beyond the little stock I own in the Rockport quarry. If the government hire stone-cutters by the day it might affect us.

By Mr. FERRY:

Q. Does your objection to this contract spring from the pecuniary loss it brings you?—A. No, sir; but if it is to go on hereafter, and the men required to work but eight hours a day, the effect will come back on us all. I do not know that it would be to my advantage at all to have this contract. I think that it would be for the interest of the government, and for the interest of the owners of quarries, all round, that this contract should be broken up.

By Mr. TWICHELL:

What do you mean by referring to a lawyer in connection with this contract?—A. I might say a lawyer, or a distiller, or anybody else; I mean that I think it should not be given to parties who have no experience in quarrying.

By Mr. FERRY :

Q. You referred to the price that is paid to the stone-cutters at the Cape Ann quarry; how do those prices compare with the prices you are paying per day?—A. They are paying their men \$4 and \$5, and we paid last summer some of our men as high as that. I think I would be willing to make a contract to cut these stones at thirty-three and one-third per cent. less than they now cost the government, although I do not know what that cost is. I know that men generally who work for the government and work by the day do not work as men do who are employed by the piece. You may put a man on a very nice piece of work by the day, and he will spin it out to a length that at \$4 or \$5 a day amounts to a good deal. If I had that work I should have it done by the piece. I believe a good deal of this work costs from \$5 to \$7 a foot that could be done perfectly well at \$1 50. I should be willing to dress the better class of this plain work at \$1 50, the second rate at eighty-one cents, and the rough work at forty-six cents per surface foot.

By Mr. TWICHELL :

Q. Is the stone they are cutting out for the government good or poor stone?—A. They have got out some very nice stone from that quarry. Some of it from the new quarry is not quite so good in color as the other. When I was receiving stone myself from that quarry I preferred it to any other, for certain kinds of work, for the reason that it was very nice splitting stone; although, when split, it works harder and costs a little more to dress it than stone from the Rockport quarry.

By Mr. TRIMBLE :

Q. You say it is harder and costs more to dress it; how much more would it cost?—A. Not much more; it would not make a great deal of difference, because the stone splits truer; it is a very good stone.

Q. Can you form any idea of how much it would cost to put that quarry in as good working order as the Rockport quarry?—A. It would cost a great deal of work. I do not know whether it could be put in as good order as the Rockport quarry at all, and I can form no estimate of what it would cost.

By the CHAIRMAN :

Q. How much more will the quarry be worth when they have finished this work than when they commenced it?—A. If the rubbish is carried off properly it will be worth a great deal more. As it is now it is worth very little. I should say it would be worth \$15,000, or \$20,000 more, probably.

Q. Will it take \$20,000 to clear off the rubbish, to put it in good working order?—A. I cannot say how that is.

By Mr. TWICHELL :

Q. Does it make any difference to the government whether it costs \$20,000 or \$40,000, if the contractors do it?—A. No, sir; not if the contractors do it at their own expense. A very large amount of money has already been laid out for building sheds, stores, &c., and somebody has got to lay out a good deal more.

By Mr. VAN WYCK :

Q. Were there any sheds or conveniences for dressing stone at this quarry at the time the contract was made?—A. Very limited, if any. I should think those that were there were taken away and better ones put up.

By Mr. TRIMBLE :

Q. State whether or not it is the general custom among stone-cutters and all mechanics to have work done by the piece when it can be done that way?—A. It is much the cheaper mode of having it done.

By Mr. VAN WYCK :

Q. You have referred several times to the demoralization resulting from the small number of hours the men work at this quarry; state the number of hours they do work.—A. If they adopt the eight-hour system I say it will have that demoralizing effect.

Q. Have you adopted it?—A. No, sir; but the men, as I understand, have been talking about knocking off because they cannot get that, and if they do that, and are sustained, it will be a great injury to our business.

By Mr. TYNER :

Q. State whether thirty-nine and three-fourths cents per cubic foot, and twenty-five cents per ton bankage and wharfage for foundation stone, and fifty-five cents per cubic foot, and twenty-five cents per ton for bankage and wharfage for superstructure stone, is a fair price for these qualities of stone in the Boston market.—A. I do not understand that these parties receive the twenty-five cents bankage and wharfage if they furnish the stone. If they do, I should think it was a pretty good price.

WASHINGTON, March 30, 1870

JOHN GARDNER re-examined.

By Mr. TWICHELL:

Question. Did the Rockford Granite Company make more than two bids for this contract?—Answer. No, sir.

Q. Are those the two bids?—A. (After carefully examining the papers handed him,) yes, sir, those are the original bids.

Q. Did or did not the company, in setting the price at forty cents, include bankage and wharfage?—A. In the first bid bankage and wharfage are not included; in the second they are.

Q. Have you ever made any bids except those two?—A. No, sir.

By the CHAIRMAN:

Q. What do you mean by saying "bankage and wharfage *included*?"—A. The first is only forty cents, without adding bankage and wharfage; the second is fifty cents, in addition to the bankage.

Q. You mean to say that the first bid includes bankage and wharfage, while the second is exclusive of bankage and wharfage?—A. No, sir; exactly the reverse. In the first proposition we agreed to give them bankage and wharfage, fifteen cents and five cents; or we would get out the stone at forty cents a foot and deliver it to the city without charging for bankage and wharfage.

Q. The first bid is for the basement alone; the second for the entire stone for the building—I understand.—A. Yes, sir.

By Mr. TWICHELL:

Q. Have you ever yourself put any other interpretation upon those bids, or either of them, than you have here given to the committee?—A. No, sir.

Q. Is that letter in your handwriting? (Exhibiting to witness a letter addressed to the Secretary of the Treasury, dated May 26, 1869.)—A. Yes, sir, that is my handwriting.

Q. Will you read aloud to the committee the lines *underscored*, on the third page of the letter?—A. (Witness reads:) "We have made them two distinct propositions; one to furnish the stones on the spot, as fast as they can lay it, at forty cents per cubic foot and twenty cents per ton, making six dollars per ton; or to lease them a good quarry to get the stone and ample wharfage to get the stone, at twenty cents per ton. I annex a copy of our proposal, as they say the contract is to be decided by you." I would say that in writing this letter I only intended to post Mr. Boutwell, so that he should not be deceived. I wrote the letter in a hurry; I was not the authorized agent of the company; Mr. Stimson was the agent; I had been acquainted with Mr. Boutwell for twenty years and over, and knowing him to be an honest man I only meant to post him on the matter.

Q. Are you or are you not responsible for that letter, and did you tell the truth in it?—A. I meant to tell the truth; but I claimed more than the facts would warrant, though of course when I wrote I supposed I was making a correct statement. So far as being responsible is concerned, Mr. Stimson was the authorized agent; and I suppose the bids themselves would govern the contract, and not any side letters that might be written.

Q. Do you mean to say you made a mistake in writing that letter to Secretary Boutwell?—A. I think I did.

Q. If you gave Mr. Boutwell such information as that, would you not expect him to believe it and act upon it?—A. I would expect him to act upon the actual bids.

Q. And disregard your letter?—A. Yes, sir; the formal contract is the thing to be guided by, and not any side letters.

By the CHAIRMAN:

Q. Have you had an interview with Mr. Boutwell recently?—A. I had a talk with him this morning, sir.

Q. Did you have any conversation upon the point as to whether he had found that there had been a combination to put up the price of granite in Boston, and therefore directed the making of this contract with the Cape Ann Granite Company?—A. Yes, sir.

Q. What was the purport of that conversation?—A. I asked him whether, in all my communication with him, verbally and in writing, he had been induced to believe, through any representation of mine, that any conspiracy, or arrangement, or agreement had been made to put up the price of granite. He replied that he never had.

WASHINGTON, March 30, 1870.

A. B. MULLETT re-examined.

By Mr. TWICHELL:

Question. Mr. Mullett, where and in what way is the stone for this building measured?—Answer. We schedule them at the office in regard to size. There is no allowance for size beyond what they finish.

Q. On what do you include this fifteen per cent?—A. The cutting and boxing.

Q. Does it include anything for removing the earth off from the stone, or for removing the stone to the sheds or quarrying the stone?—A. No, sir; they are delivered at the sheds; it includes simply the cutting and the boxing.

By Mr. FARNSWORTH:

Q. Mr. Mullett, the question as to how much that language in the contract embraces is a legal question, is it not?—A. I suppose so, sir; one to be interpreted by the office. We interpret all contracts in our own office, with the approval of the Secretary.

Q. But if action should be brought in the courts against you on the contract, then the courts would interpret it, would they not?—A. I suppose so, of course.

Q. Will you state when the government begins to pay for working the stone, under the contract?—A. It is delivered to the shed, quarried to dimensions. The contract is for dimension stone.

Q. Is the contract for dimension stone?—A. Certainly it is.

Q. What kind of dimension stone?—A. Just such as we order, sir.

Q. Will you tell the committee what the phrase "quarried dimensions" means?—A. It means quarried according to the schedule—larger, by a margin of half an inch to an inch than the stone is to be after it is dressed.

Q. Under this contract, do you pay for this extra margin of half an inch or an inch?—A. We do not; a claim was made for pay for that excess, but we refused to pay.

Q. Under a contract which says that you *are* to pay for it?—A. We pay for the quarried dimensions under the schedule.

Q. And you stated that the quarried dimensions included from half an inch to an inch more than the stone was to be after it was dressed?—A. I do not remember saying any such thing, sir.

Q. Did you not just now state that the term "quarried dimensions" embraces a margin of half an inch to an inch beyond the size of the stone after it was dressed?—A. If I had said any such thing as that, sir—

Q. Will you answer my question?—A. No, sir; I said nothing of the kind.

Q. Will you be so kind, then, as to tell us what you *did* say?—A. I said, sir, that our contract was for quarry-dimension stone. We render a schedule of net sizes. You then asked what size they came from the quarry. I said, from half an inch to an inch larger than they were to be after they were dressed.

Q. Mr. Mullett, have you seen the testimony taken in connection with the examination into the construction of the Boston and New York post offices, since it was printed?—A. I have seen a portion of it. I have not read it all.

Q. When did you first see it in print?—A. I think some time last week.

Q. Who showed it to you?—A. I think one of the members of the committee.

Q. What member of the committee first showed it to you?—A. I think General Van Wyck first showed me a portion of it. He brought it to me and asked me some questions on some points connected with portions of it.

Q. When was that?—A. I think it was a week ago Sunday.

Q. Have you seen the report of the committee in the case—the copy which has been drawn up and printed?—A. No, sir.

Q. Did you see it before it was printed?—A. No, sir.

Q. Did you see any manuscript drawn up by several members of the committee in connection with this case?—A. No, sir.

Q. Who next, after Mr. Van Wyck, showed you the printed evidence, or any portion of it?—A. I think it was Mr. Twichell.

Q. When?—A. I really don't know—some time during the week; he came and showed me a portion of it, and asked me for an explanation in regard to it.

Q. Was any copy left with you by either of these gentlemen or anybody else?—A. I believe a copy was left in my office.

Q. When, and by whom?—A. I suppose Mr. Twichell left it there; I was not there. That was on Friday last, I believe.

Q. Did you, after that, show a copy of that testimony to anybody?—A. Yes, sir.

Q. To whom?—A. To a great many people, sir.

Q. How many?—A. I suppose twenty or thirty; may be more.

Q. To what reporter of the press?—A. I guess to half a dozen; I have shown portions of it to nearly every reporter I have met.

Q. What are their names, so far as you remember them?—A. Well, I have shown it to Mr. Scott Smith; to a couple of reporters of the Chronicle, I believe; to General Boynton; to Mr. Andrews; to Colonel Crounse. I forget whether to any other reporters or not, though I may have done so.

Q. Did you take it to the office of any of the reporters?—A. Of course I did.

Q. To the offices of which reporters?—A. To all of those I have mentioned. When I go around of an evening I very often visit them.

Q. Is it your custom to go round to the various reporters of the press?—A. Yes, sir; I seldom come to Washington without stopping in to see them, or some of them.

Q. You do not come to Washington every evening?—A. No, sir.

Q. How often have you seen Mr. Crounse and shown him that testimony?—A. Only once.

Q. Did you assist Mr. Crounse in getting up his report?—A. No, sir. I called his attention to different parts of it. I called the attention of the other gentlemen to different matters.

Q. You visited them for that purpose?—A. Well, I don't know that I visited them for that purpose; I might have called upon them if I had had no errand of the sort.

Q. Did Mr. Twichell authorize you to show that pamphlet of printed evidence to these correspondents of the press, and others?—A. No, sir. I found that the seal of privacy was off and that other copies were out, and supposed that no special permission to show it was necessary.

Q. Who told you that other copies were out?—A. Well, General Boynton told me that it was in type, to his knowledge.

Q. Where?—A. He didn't tell me where.

Q. You have seen no copies except the one that was sent you?—A. I don't know as I did.

Q. Did you say that General Boynton told you he had seen a copy?—A. I said nothing of the kind.

Q. Did Colonel Crounse tell you he had seen a copy?—A. He told me he had not.

Q. Did any of the other reporters tell you they had seen copies?—A. I can not say; it is a matter I did not charge my mind with.

Q. With what members of Congress have you had consultations, and shown them a copy of the evidence, or parts of it?—A. I do not now remember showing it to any.

Q. Have you shown it to General Butler?—A. I think not.

Q. You hesitate; why do you hesitate? Does it take you so long as that to recall whether you have shown the evidence to General Butler or not?—A. I see and converse with General Butler so frequently that it took me a moment or two to recollect what I might or might not have said or shown to him.

Q. Have you had any consultation with him upon the subject?—A. I do not know what you mean by a consultation.

Q. Have you had any conference or conversation with him on the subject of this testimony?—A. I have had many conversations with him about it, sir.

Q. Did you have a copy of the testimony present during those discussions?—A. I feel confident that I had not.

Q. When did you have the first conversation with him?—A. Why, sir, as soon as this investigation commenced; and have continued them from that time until the present. All my talk with him has been openly and above-board.

Q. And have had no more conversation with him than with anybody else?—A. No, sir.

Q. With whom have you conversed as much and as freely as with General Butler?—A. I cannot say; I have talked with my friends generally.

Q. You have talked a good deal about it, haven't you?—A. Yes, sir, I have talked a good deal about it.

By Mr. TWICHELL:

Q. You say I put the testimony into your hands, on Friday?—A. Yes, sir.

Q. Did I at the time ask you to examine Mr. Oertley's letter of January 20, 1869?—A. Yes, sir.

Q. Did I inform you that the seal of secrecy was off from the evidence now?—A. You told me that the report had been completed, and that you supposed there was no further secrecy about the matter.

By the CHAIRMAN:

Q. What did General Van Wyck say upon that point, when he showed you the testimony?—A. Well, he only showed me a very small portion of it, and asked two or three questions concerning it.

Q. Having been informed that the secret was off, you felt at liberty after that to exhibit the evidence to whom you pleased?—A. Certainly, sir.

Q. On your former examination, were you not requested to inform the committee of all the bids and propositions you received for material, for both the Boston and the New York buildings?—A. Yes, sir.

Q. Why, then, did you not do so?—A. I did.

Q. Do you mean to say that you furnished the committee with all the propositions that were made for furnishing materials for those buildings?—A. I supposed so; I directed the chief clerk to prepare them for that purpose, and was not aware but he had done so.

Q. Did you furnish to the committee Mr. French's first proposition?—A. Yes, sir, I feel very confident that I did.

Q. You are very confident of that, are you?—A. Yes, sir, I am very confident they were sent up.

Q. What was Mr. French's first proposition?—A. It is here now, sir.

Q. The committee have never seen it yet. (The proposition was here read.) Can you tell the committee why that paper was not furnished, along with the other papers?—A. I have told you several times that I believed it to have been furnished. It is barely possible it was omitted, but I have always supposed that it was placed in the hands of the committee.

Q. Did you see the papers that were furnished to the committee?—A. I presume I did. I have no recollection about this specially; but I know I gave orders for everything of that sort to be made out and sent in.

Q. Do you recollect whether or not you saw the papers that were furnished to the committee?—A. I have told you I believe I did see them.

Q. But do you recollect seeing them?—A. I have told you, again and again, that I believe I did see them; I have no positive recollection upon the subject.

Q. Did you, or did you not, furnish the committee with the bids offered by Mr. Stinson for the Rockport quarry?—A. Certainly, sir, if they were in; and at least a part of them were in, for they are printed.

Q. Did you furnish the committee with your acceptance?—A. I presume so; I know I forwarded all the papers I supposed you wanted.

Q. Do you still say that the Secretary found that there was a combination among the granite men to put up the price of granite?—A. I am not aware that I ever made such a statement, sir; I may have said that was my *impression*.

Q. Do you still assert that the Secretary directed you to make plans for the New York post office?—A. I have repeatedly told you, sir—

Q. Will you please omit that style of expression, in which you indulge so freely: "I have told you," &c., and give a direct answer to my question?—A. I cannot give any more direct answer than I have already given the committee, over and over again, to that question.

Q. Well, sir, will you tell us now whether the Secretary did or did not give you directions to make new plans for the New York post office?—A. If you will allow me to answer the question so the committee can understand it—

Q. If you will answer plainly, yes or no, I think the committee will find no difficulty in understanding it.—A. I decline to have answers forced into my mouth, which, if I make, will make me say what is not true.

Q. I want a direct answer to my question; do you still say that the Secretary directed you to make new plans for the New York post office building?—A. I decline to answer unless I am permitted to answer in my own way.

Q. I put the question again, and insist—A. You may put your question as often as you please, and insist as much as you choose, I have nothing more to say than I have said.

Q. You decline to answer?—A. I decline to answer in the words you would force into my mouth. I am ready to answer in my own way so as to convey a correct idea of facts to the committee.

By Mr. VAN WYCK:

Q. Well, Mr. Mullett, state to the committee, in your own words, as briefly as you can, whether you did or did not receive directions from the Secretary in relation to the making of new plans for that building?—A. I do not know as the Secretary gave me any *positive orders*, in so many words, to make new plans for that building; but when he gave me orders to go on, the only definite and absolute order he gave beyond that was that the building *must* set back at least fifteen feet from the city property. Now, that *involved* new plans; it was utterly impossible to comply with that requirement without rearranging the entire structure. I told the Secretary that if it were set back at all it better be set back twenty-five feet instead of fifteen feet, and then the space could be used for a drive-way. I regarded that as substantially ordering a new plan for the building.

By the CHAIRMAN:

Q. Had Mr. Boutwell ever seen the other plans—those of the New York architects?—A. I think not, sir; I never showed them to him.

By Mr. TWICHELL:

Q. Did you have an opportunity to examine your testimony, taken in December, before it was carried to New York?—A. I never did; I never saw it at all until the time when I wrote the chairman a letter in regard to the matter.

Q. Did you then think that your testimony was reported differently from what your statements actually were?—A. As to that I will say that there were some errors, which I pointed out to Mr. Smith, in conversation, and he agreed with me that there might be some small errors in his report of the evidence. There was no material point on which we disagreed. I found that a good deal that I said was not down—it would have made my testimony more explicit, on some points. He made a few corrections that he and I agreed upon—nothing of any great importance; I was pretty well satisfied on the whole.

Q. Have you felt that you had been unfairly treated by this committee?—A. After what has transpired here this forenoon I do not think it is necessary for me to answer that question.

By the CHAIRMAN:

Q. You have felt somewhat angry, sometimes, towards some members of the committee, have you not?—A. No, sir; I have not felt angry towards any member of the committee, *except one*—there is no need of mentioning names. I have certainly not been angry at Mr. Twichell.

Q. No; I don't see any reason why you should. Mr. Mullett, will you tell the committee why, after accepting the proposition of the Rockport Granite Company to furnish stone for the foundation of the Boston building, you sent them a contract and lease differing from the terms of the proposition?—A. No proposition was ever accepted for furnishing foundation stone. There was no object in leasing the quarry for foundation stone merely. It made no difference what the color of the stone was for the foundation of the building.

Q. You say it made no difference what quarry the foundation stone came out of?—A. Of course, it must be good, substantial stone; but as to color, it made no difference. The object in leasing the quarry was to obtain stone for the foundation *and the superstructure*.

Q. Was not French's proposition for the basement of the building substantially like that of the Rockport Company, excepting the difference in prices?—A. Very well; the lease was sent to the Cape Ann without any change except the difference in prices.

Q. Is it not true that you sent out a new circular?—A. Yes, sir; for the contract first executed by the Cape Ann Granite Company was not approved by the Secretary.

Q. Then the contract finally made with the Cape Ann Granite Company was not the one first executed by them?—A. Of course not. In regard to that first one, the Secretary canceled the whole proceedings. The second proposition of the company was not the same as their first; by the second proposal we were to lease the quarry absolutely.

Q. Then you did enter into a contract with the Cape Ann Granite Company to lease their quarry at forty-five cents a foot?—A. Yes, sir.

Q. And twenty cents a ton in addition?—A. Yes, sir. I believe those are the figures.

Q. The Secretary approved of this second contract?—A. Yes, sir; the Secretary dictated the second circular himself.

Q. Do you mean to say that the Secretary dictated all the terms with reference to the lease?—A. I mean to say nothing of the kind, sir; when the documents were prepared they were submitted to the Secretary, who looked over it, and interlined it to suit himself.

Q. If I understand you correctly, you entered into the contract with the Cape Ann Granite Company which was not entered into by the Rockport Company?—A. I will send you a copy of the contract and its conditions, and you can see for yourself.

Q. Is that correct?—A. I will send it up to you.

Q. Did you, or did you not, enter into the contract with the Cape Ann Company which was tendered to the Rockport Company, and which they declined to enter into?—A. I have not entered into any contract; a letter was sent to Mr. Bryant.

Q. Did *he* enter into the contract?—A. The proposal of the Rockport Granite Company was considered the lowest, and lease and contract forwarded to them. The instructions given were, if the lowest bidder refused to execute the contract it should be given to the next lowest. There was no such thing as an actual contract until after the approval of the Secretary. In this case the Secretary refused to sign, and directed new circulars to be prepared.

Q. Did he tell you what he put into the circular?—A. We consulted together over the matter; he made some additions.

Q. Did he dictate the condition with regard to lease, &c.?—A. I was directed by him to prepare a circular; I did so, and took it to him; we then went over it together, item by item; and after he had thus gone through with it and modified it, I regarded it as being his circular.

Q. Do you remember what modifications he suggested?—A. I do not, sir.

Q. Do you remember whether he ordered the insertion of the clause authorizing the government to take stone for other purposes?—A. Undoubtedly he did, sir.

Q. Do you recollect his doing so?—A. I know that he did, sir.

Q. Do you swear that you recollect that the Secretary authorized the insertion of that clause?—A. I do so swear, in general terms, for every one of those points in the circular were discussed.

Q. Then you swear before the committee that the Secretary of the Treasury directed you to put that condition into the circular which reserves to the government the right to take stones from the quarry for other purposes than the post office building?—A. I do not say that the Secretary *suggested* that himself; but I do say that he approved it, and directed me to issue a circular containing the conditions which had been discussed between us, and approved by him.

Q. Will you state to the committee why that provision was inserted in the circular?—A. Because, in leasing a quarry, we want all the privileges we can get, to cover any contingency that may arise. At that very time there was some talk of going on with the barge office, in New York; an appropriation had been asked for it. We might have found it the best thing we could do for the New York post office.

Q. What is the price as compared with that from Turk's Island?—A. There is a difference of ten cents a ton freight, which makes them the same price.

Q. What did you pay for foundation stone in New York?—A. We paid sixty-five cents for stone, right through.

Q. What do you pay at Boston?—A. We pay thirty-nine and three-fourths cents.

Q. And the bankage and wharfage?—A. And the bankage and wharfage.

Q. At New York do you not pay sixty-five cents, and bankage and wharfage?—A. Yes, sir.

By Mr. TYNER :

Q. Mr. Mullett, I understand, and I want to know if I am correct in my construction of the contract, that, by the second contract you made with the Cape Ann Granite Company for the material for the Boston building, the government pays fifty-five cents a foot, together with bankage and wharfage?—A. For the superstructure they pay fifty-five cents a foot, and bankage and wharfage of twenty-five cents a ton.

Q. Did the government furnish to Mr. French the derricks and appurtenances for quarrying?—A. I believe he borrowed one derrick, with the understanding that he was to return it or pay for it.

Q. Has he only one derrick belonging to the government?—A. I do not know that he has that. He asked, if I recollect right, to borrow a derrick; but whether he did borrow it or not I do not know. It was understood to be a temporary thing to facilitate the handling of the stone.

Q. Did you go on to the quarry yourself, before making the bargain?—A. Yes, sir.

Q. Did you examine the quarry?—A. Yes, sir.

Q. Was it opened?—A. Yes, sir.

Q. Are they not now opening another quarry in the vicinity?—A. We were anxious to get darker-colored stone for the basement piers; we tried to get Quincy stone; I wrote to Bryant, directing him to get Quincy stone. We wouldn't pay anything extra for—

Q. The character of the granite, then, was not what you wanted?—A. Yes, sir.

Q. I understand you wanted darker-colored granite?—A. We got it in the upper part of the quarry.

Q. Did they open it on purpose for that?—A. I don't know that they did.

Q. When did they discover this dark colored granite?—A. I don't know, sir.

Q. What is the difference per ton in transportation from New York to Washington?—A. No difference, sir.

Q. No difference?—A. Not the slightest difference, sir.

Q. You say it costs ten cents per ton more to transport the stone to New York than to Boston?—A. That is what it was estimated. I meant to say that wharfage about ten cents a ton was not an unfair average for the difference.

By Mr. VAN WYCK :

Q. How many cubic feet are there in a ton?—A. Eleven cubic feet.

Q. How much does bankage and wharfage add to the price?—A. A little over two cents a foot.

By Mr. TYNER :

Q. Is the cost for bankage increased on the opening of the new quarry?—A. We have nothing to do with that, sir. If they open a new quarry for every stone they furnish us it makes no difference to us. We pay no part of their expenses.

Q. You estimate bankage upon the number of feet excavated—eleven cubic feet to the ton?—A. No, sir; we pay bankage only on what we take away. If they quarry ten thousand tons and we want one ton, we pay bankage and wharfage on one ton.

By Mr. FERRY :

Q. The quarriers get out the stone according to dimensions furnished by your office?—A. Yes, sir; we give a list.

Q. And then they quarry them out within an inch or half an inch of the size?—A. Yes, sir.

Q. And bring them to the shed, where they are hammered?—A. Yes, sir.

Q. In paying for those stone, how are you governed?—A. By their exact size when finished.

Q. Then you do not allow for the half inch or inch over size?—A. No, sir; we have refused to pay for that. We give net sizes, and pay for net sizes.

Q. Has there been no demurring to that interpretation of the contract?—A. They wanted pay for half an inch more on all sizes, but we refused to pay it.

Q. Is it still an open question?—A. It is not an open question so far as I am concerned. I have decided not to pay for anything except what the contract calls for; for net sizes.

By the CHAIRMAN :

Q. When was your decision made?—A. It has never been put into writing, that I know of.

Q. When, or in what shape, was their claim put in?—A. I do not know as any formal claim was put in.

Q. Have you ever notified them of your decision?—A. I told Mr. Dickson, when he mentioned to me that they wanted pay for full sizes, not to listen to any such claim; and we have always paid according to net sizes.

By Mr. FERRY :

Q. I think the postmaster, Mr. Burt, said that claims were made for extra work, and

rejected by him.—A. I suppose, in all contracts, such claims come up. In this case, I do not think there is any danger of the claim for the extra size being allowed by the government, or of the company being able to enforce it against the government. In the same way, the question came up as to whether the government should pay for the sheds under which the work was performed.

By the CHAIRMAN:

Q. You say a claim was made on the government for pay for the sheds that sheltered the workmen.—A. I understood from General Burt that such a claim was made.

Q. By the Cape Ann Granite Company?—A. Yes, sir.

Q. Was not a claim made by Colonel French for pay for his foreman?—A. Yes, sir; and rejected. As I said, in nearly all contracts, claims of this sort are put in and rejected; and generally nothing more is ever heard of them.

By Mr. TWICHELL:

Q. Do you remember my saying, when I brought you this evidence, on Friday night, that the secrecy was then, on that day, removed; also, that Mr. Oertley's letter of January 20 was inserted without the authority of the committee, and that I asked you to examine it with care?—A. Yes, sir.

Q. And to give me your views upon it at some convenient time?—A. Yes, sir.

Q. You have not given them yet?—A. No, sir.

Q. You will do so, will you?—A. I will.

Q. Mr. Mullett, I want you to prepare and furnish to the committee copies of all correspondence touching the Boston and New York post offices.—A. I will do so, sir.

By the CHAIRMAN:

Q. Was last Friday night the first time that Mr. Twichell showed you this testimony?—A. Yes, sir.

Q. When did he first bring it to you?—A. He has come and asked questions, with reference to parts of it, several times.

Q. Did he bring the testimony with him on those occasions?—A. If he did, he didn't show it to me.

Q. And he never showed it to you until Friday?—A. No, sir; to the best of my knowledge, he did not before show it to me; on the contrary, he declined to give it to me; I wanted him to, but he said he couldn't.

By Mr. TWICHELL:

Q. Did you ever see any part of the testimony, or know what it was, from me, until Friday night?—A. No, sir.

By Mr. FERRY:

Q. I would like to know, for my part, when the secrecy was removed.

By Mr. TWICHELL:

I put the question to the chairman last Friday, directly and positively. Mr. Farnsworth told me the majority report had gone to the printer. Said I, is the secret on or off?

[Discussion followed as to whether the chairman did or did not inform Mr. Twichell that the seal of secrecy was removed from the proceedings of the committee; but no more evidence was elicited from Mr. Mullett.]

TREASURY DEPARTMENT, *March 30, 1869.*

SIR: Yours of the 24th instant, inclosing copy of advertisement for granite and asking proposals for the removal of earth, is received. In reply I have to say, that after due consideration I would prefer not to make a contract for the excavation, but to have the work done by day's labor, provided you can employ industrious men and teams and can push work in a proper manner. Please advise me if this can be done. If not, I will forward a form of advertisement for proposals.

As regards the granite, the subject is still under consideration, and I will advise you at an early day. I inclose, however, a form of advertisement for cement, lime, and sand, which you will please have inserted in the Boston Journal, Transcript, and Commercial every day for two weeks, when you will please open the bids, as provided in your instructions, and forward the same with your recommendation in regard thereto.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

TREASURY DEPARTMENT, *April 3, 1869.*

SIR: I have this day had a conference with General Butler and some other gentlemen from Massachusetts in regard to granite for the foundation and basement story piers of the post office building under your charge, and have made a careful examination of the various laws relating to advertising for proposals and making the contracts in connection therewith.

It appears to me that the only chance we have of conforming to the requirements of the law and preventing difficulty, and at the same time securing a prompt and ample supply of material for our work, is to lease some good quarry and make arrangements for quarrying the stone, either by day's work or by the cubic foot, delivered at the wharf in Boston. I am also advised that some admirable quarries near Boston can be obtained on favorable terms, and as this is a matter that will excite considerable interest, and perhaps involve some feeling, I am anxious that a full examination of the case should be made by you. I have also requested General Burt to do me the favor to confer with you on the subject, and I think it would be more satisfactory if you can induce him to accompany you to the quarry, as I know that a concurrence of opinion between you would place the matter beyond cavil in your city.

I need not, with your experience, call your attention to the fact that the quality of the stone, facilities for transportation, and freedom from seams, flaws, or other defects, are of more importance in making a decision than a difference of a few cents per ton. It is also necessary, in making your calculations, to estimate the cost of delivering it on board ship, and not so much the amount we shall have to pay for it in the quarry.

You will perceive by this that the object of the department is to avoid any delay by quarrying under contract with the embarrassing conditions of the law, and it is scarcely to be expected that responsible contractors will make arrangements to supply granite when we cannot tell how much we need or how far our money will carry us. On the other hand, I do not propose either to make myself liable to a criminal prosecution or to give you such instructions as would place you in the same delightful position. If Congress will only, as I have frequently suggested, give me or any other officer the necessary power, contracts can be made that will be advantageous to the government; but I cannot see how, in the present condition of affairs, any responsible bids can be obtained at fair rates.

My experience, as you know, at Portland and other places, has shown conclusively that contracts under the present system simply mean annoyance and delay without any remedy applicable to the case.

Please investigate this matter at the earliest possible moment and forward your report without delay.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office and Sub-Treasury, Boston, Massachusetts.

[Telegram.]

TREASURY DEPARTMENT, *April 7, 1869.*

GRIDLEY J. F. BRYANT,
Superintendent new Post Office, Boston, Massachusetts:

Take no action in regard to letter of April 3 until return of Colonel French from this city

A. B. MULLETT,
Supervising Architect.

[Telegram.]

TREASURY DEPARTMENT, *April 13, 1869.*

GRIDLEY J. F. BRYANT,
Superintendent Post Office, Boston, Massachusetts:

No additional instructions. Carry out those in letter of 3d.

A. B. MULLETT,
Supervising Architect.

TREASURY DEPARTMENT, *April 16, 1869.*

SIR: Yours of the 12th instant, transmitting proposals to supply men and teams for the excavation of the post office site, is received.

In reply I have to say, that I shall be in Boston on the 27th instant, unless prevented by unforeseen circumstances, in which case I will telegraph or write you. I believe that it would be desirable to have a personal conference with you before making any decision. I

will therefore say that you will please notify the parties that you cannot make a decision until the end of the present month.

Meantime should the old buildings be removed, and it should be in your opinion desirable to commence operations, you may do so, hiring as many horses and carts, from the lowest bidders, as you may need. The hands necessary, other than the drivers of the carts, you will employ yourself at regular market wages. I can see no necessity whatever, or anything to be gained by allowing contractors a profit on the wages of laborers employed by days' work. If mechanics and laborers cannot be employed directly by the government in Boston, I think there will be no difficulty in importing a sufficient supply. The horses, carts, and drivers we will of course be compelled to hire of those parties who have them.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

BOSTON, April 17, 1869.

MY DEAR SIR: I telegraphed you to-day, asking a suspension of contract for stone for the new post office to be built here, for the reason that I think schemes and plans are in process to have the stone furnished from a very poor, half opened, badly worked, inferior quality of stone. The quarry is in Gloucester, very near the summer home of General Butler. The Rockport Granite Company is in the town of Rockport, on the south side of the cape and General Butler, and the other quarry is on the north. The Rockport granite quarry is one of the largest in the State, and the stone is of superior quality, and a very good color, being shaded between the White Concord granite and the Blue Quincy. There are no finer or more elegant buildings in Boston than the blocks of warehouses erected with this material. Mr. John Stimson is the agent of the company. He formerly worked it and owned it himself, and he is one of the most practical, substantial, reliable men in the community.

This stone is taken deep beneath the surface, the color is even and good, and the blocks are very large. They can give larger and better stone than any other quarry about here. They have a great force to do the work, and seven sloops to take the stone to market, and ample capital to take a large job and put it through promptly. I know all this to a certainty, and I think if the stone work is to be put fairly out for bids, they will propose to do the work, and what they undertake they will do themselves, and give ample bonds to insure their fidelity and promptness.

Now, I wish to tell you what is going on here, as I am informed. The quarry of inferior stone near General Butler's country home was purchased by three men a long time ago with a purpose of working it; that they found the quality of the stone so poor, after working it awhile, and not getting out much but paving stones, abandoned it. They subsequently sold it for a small sum to some one who did not work it, and it was considered of very little value; and no one could imagine what the purchaser could ever do with it. But now it is supposed that General Butler has a hand in it, and Mr. French, Butler's friend, about whom Butler and Governor Andrew quarreled, and who went to New Orleans with him, and Bryant, the architect, got hold of this poor quarry near Butler's house, and proposed to work it and furnish the stone for the new post office, not by contract but by the day, saying that the government are rather sick of contracts, they are too troublesome. I should say, ought to be sick of those who add so much to the expense of building by paying for commissions from all who furnish materials, besides their commissions for building; parties, they say, don't do their work, &c. Now, the supposition is that General Butler is behind French and Bryant, bringing his influence to induce the department to let these men have the job of furnishing the stone, and then this quarry of theirs is to be worked, and if not worked is to be sold at a very large price to some one who will take their job of them to furnish the stone. I am told by those whose opinion I have great confidence in, if this thing is carried out the government will pay at least half a million of dollars more than it will if they contract with responsible parties who will do their work well and give good bonds to insure it. The feeling here is that the building of the post office is to be a rich carcass for certain people to pick upon. It will not be proper for me to put on paper what is said here about it, and what the reputation of some of the parties have for making shameful additions to estimates in constructing public buildings. You may have some information from other sources about this matter; but I hope General Butler and French and Bryant will not have this job unless they are put in competition with practical, reliable men who own quarries and can and will do the work themselves honestly and promptly.

I write this confidentially. It may be of some use to you and enable you to save a large sum, and have the work done well by practical men at reasonable prices.

With personal regard, I am truly yours, &c.,

JOHN GARDNER.

HON. GEO. S. BOUTWELL,
Secretary of the Treasury, Washington, D. C.

[Telegram.]

TREASURY DEPARTMENT, *April 24, 1869.*GRIDLEY J. F. BRYANT, *Superintendent of Post Office, Boston, Massachusetts:*

Unexpectedly detained. Will be in Boston Wednesday morning.

A. B. MULLETT,
*Supervising Architect.*OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, April 28, 1869.

SIR: The government are about putting in a foundation for the post office and sub-treasury building in Boston. They have met with difficulties heretofore in regard to being annoyed by contractors in not being able to furnish their materials when contracted, suit on bond being an inadequate remedy because of delays in carrying on the work. They have learned that the ——— is of sufficient capability for their purpose. I desire, therefore, that the ——— should make proposals, in writing, at what rate they will lease their quarry to the United States per ton, bankage, or the right to take out stone from the quarry, of such sizes and in such quantities as they may need; the quarry to be worked in a good and workmanlike manner. In regard to the removal of grout, not being obliged to move it more than half a mile, and wharfage for loading the stone in at least nine feet of water, sufficient to accommodate not less than seven vessels, of one hundred tons each, at a time, giving bankage and wharfage, separate items. Also at what price per cubic foot, they will deliver at the building site of the post office and sub-treasury, on Devonshire street, in Boston, stone of such sizes and in such quantities as the superintending architect may direct, not to exceed twenty cubic feet in a single stone; and also at what price per additional cubic foot, when stone are ordered above twenty cubic feet. Payments to be made monthly of seventy-five per cent. of stone delivered; the remaining twenty-five per cent. to be paid when the required amount is furnished, with forfeiture of twenty-five per cent. on any failure to deliver the stone promptly when required. Upon lease of the quarry, payments to be made quarterly for the amount of bankage and wharfage upon stone actually used. Proposals to be made in the alternative, and, if accepted, to be a contract, with penalty in forfeiture of ten thousand dollars in failure to comply.

As the work is desired to go on with promptness, the earliest possible reply is desired.

Very respectfully, your obedient servant,

G. J. F. BRYANT,
*Superintendent.*TREASURY DEPARTMENT, *April 26, 1869.*

SIR: Your letter in regard to the method to be adopted to secure a supply of granite for foundations, is received. In reply, I have to say that, in view of the impossibility of enforcing contracts made with the government without vexatious and costly delays, the department has decided to ask proposals for the lease of some suitable quarry, that is in good working condition, possessed of proper wharfage facilities for the loading of a sufficient number of vessels, to insure an ample supply of the best quality of foundation stone. Your thorough acquaintance with the various kinds of granite used in your city for the purposes for which it is now required by you, will enable you to ask for proposals in such a manner as will insure a supply of suitable material, and enable bidders to make their proposals in proper form. It is, of course, necessary to take into consideration the facilities for bringing the granite from the quarries to the building in making a decision.

Before preparing the specifications for the foundations, &c., I should be glad if you would prepare a memorandum, giving your views as to the kind and quality of the material and work that you think most desirable. I desire to avail myself of your experience and judgment in these questions, and would therefore suggest that in asking for proposals for stone that you specify such sizes and kinds of stone as are, in your opinion, most desirable for the proposed work.

Upon receipt of the proposals, I will thank you to confer with General Burt, and forward them to this office, with a full report and your recommendations on the subject; upon which a full examination of the subject will be made without delay, and the decision of the department communicated to you.

Very respectfully,

A. B. MULLETT,
*Supervising Architect.*G. J. F. BRYANT, Esq.,
Superintendent Post Office, &c., Boston, Massachusetts.

TREASURY DEPARTMENT, *May 8, 1869.*

SIR: Will you please forward, without delay, the proposals requested for the lease of a granite quarry to the United States; and the proposals for delivering the stone from the quarries in question. An early decision of this subject being indispensable, you will please notify the parties from whom you have requested proposals that an immediate answer is required, the department being unable to delay a decision of this question any longer.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, May 8, 1869.

SIR: Your letter of April 26th, notifying me that the department had decided to ask proposals for leasing some suitable quarry, from which to obtain the necessary foundation stone for this building, and directing me to obtain such proposals, in such a manner as my acquaintance with the subject would suggest, to insure a supply of suitable materials and enable bidders to make proposals in proper form, is at hand. Acting upon these instructions, I beg to say, that immediate measures shall be taken to obtain the desired information, which shall be communicated to you as soon as the subject has that consideration its importance demands.

Very respectfully, your obedient servant,

GRIDLEY J. F. BRYANT,
Superintendent.

A. B. MULLETT, Esq.,
Supervising Architect, Washington, D. C.

[Telegram.]

TREASURY DEPARTMENT, *May 10, 1869.*

GRIDLEY J. F. BRYANT,
Superintendent Post Office, Boston, Massachusetts:

Order the stone needed for laying the corner-stone of Colonel French.

A. B. MULLETT,
Supervising Architect.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, May 17, 1869.

SIR: Your communications of the 3d and 26th of April and of the 8th instant, covering suggestions and instructions as to the course to be pursued for procuring the lease and use of a granite quarry or quarries, from which to procure the needful foundation stones for this building, and also the cost of supplying said stone from said leased quarry, were duly received.

Referring to my letters of the 8th of April and of the 8th and 10th instant, I beg to say, in addition to the views and statements therein contained, that under date of the 28th of April I addressed a circular letter to such parties as, on conference with several of the leading firms of granite quarries, seemed desirous of considering the requirements of the government by leasing quarries and wharves for the purposes desired, a copy of which letter is hereto annexed, together with the replies of the responding parties containing their terms for the use of the quarries and wharves owned by them, and also their prices per cubic foot for supplying from said leased quarries the stone required by the United States.

A careful examination of the propositions referred to, fully convinces me that no recommendation can be made by me as to the course advisable to be pursued in the settlement of the questions under consideration, unless a most careful examination and survey be made of the intentions of the parties in making their offers to the United States. If it is the intention of each party in making his offer that the government shall have the full, entire, and exclusive use of a first-class quarry, well opened and in good working order, with immediate and entire control of all implements, buildings, fixtures, wharves, and betterments, it seems to me that this fact should be so stated and in detail. This is absolutely indispensable to enable the department to judge of the comparative merits of the localities. The economical

working requires ready access to wharf or wharves, ample facilities for loading into vessels, not to say suitable buildings for the various needful uses of the party leasing the quarry.

You will observe in the propositions inclosed there is one offering a portion only of an entire quarry described in the words of "quarry land," and from this it is absolutely impossible to know whether this is a portion of the open quarry, or what portion of it; neither can we know to what extent we are to use the wharves, roadways, derricks, blacksmith shops, and other needful buildings, belonging to the whole quarry as it is now worked, or whether we are not to use them at all. If the government have authority under this offer of selecting twenty acres in the open quarry, with the derricks, buildings, engines, &c., in active use, it might be a very favorable proposition for us, while under another state of facts it would be exactly the reverse. From your personal examination of the various quarries, you will at once appreciate the importance of the above suggestions. The government should have substantially the entire control of a quarry with all its appurtenances, and they should be full and convenient, and for any small percentage in the price I could not advise a joint or copartnership working with private parties. In procuring the different kinds of stone for the different parts of the foundation, and for many reasons which will occur to you, we desire to control ourselves the wharves connected with any quarry, and our vessels in loading might and probably would occasion complaint from parties who had any rights at the same wharves.

In transmitting the papers without the positive recommendation desired by you, I hold myself in readiness to promptly take such further action as the interests of the government shall in your judgment seem to require.

Very respectfully, your obedient servant,

GRIDLEY J. F. BRYANT,
Superintendent.

A. B. MULLETT, Esq.,
Supervising Architect, Washington, D. C.

BOSTON, May 10, 1869.

DEAR SIR: We have the honor to acknowledge the receipt of your favor of the 8th instant. In reply thereto, we beg to offer to lease to the United States the privilege of quarrying granite upon our quarry at Hodgkin's Cove, Cape Ann, for a bankage of fifteen cents per net ton. The United States agreeing to quarry and remove not less than twenty thousand tons per annum; to remove all grout to the end of the wharf, (which is situated about five hundred yards from the quarry;) to keep all the roads they may use in as good order as they now are, and to leave the quarry in as good condition, except use and quantity of stone, as they find it. We will also grant the government the free use of our wharves, which have facilities for loading seven vessels, with the required amount of water, at a wharfage of ten cents per net ton.

If this lease is accepted, we will quarry and deliver at the site of the proposed post office and sub-treasury building, in the city of Boston, what stone they may require for the foundation, of dimensions not over twenty cubic feet, at forty-five cents for all kinds of stone per cubic foot, and an addition of one cent per foot for each additional cubic foot in each block of stone that may be ordered over twenty cubic feet.

We respectfully request that this communication may be regarded as confidential.

We have the honor to remain, your obedient servants,

CAPE ANN GRANITE CO.,
Per JONAS H. FRENCH.

GRIDLEY J. F. BRYANT,
Superintendent of Construction of Post Office and Sub-Treasury Building, Boston.

ROCKPORT, MASS., May 11, 1869.

SIR: Your letter of April 28, inviting proposals for stone for the foundation for the proposed new post office and sub-treasury building in Boston, has been received, and in reply will say, we will lease to the United States government a stone quarry suitable to quarry the foundation stone from for the proposed building, and furnish sufficient wharves to load the stone on board the vessels from, with a good chance to get rid of the grout, all within the distance required by your letter referred to above.

The quarry is now being worked by us, and is in good working order, good roads, with a gradual descent from the quarry to the wharves. There are about twenty acres of quarry land which we propose to lease to the government, and the wharves are the most convenient to freight stone from there is on Cape Ann, and we are now paying from ten to twenty-five cents a ton less freight money on stone from these wharves than is being paid from any other wharves on the cape.

We will lease the quarry for fifteen cents a ton bankage and five cents a ton wharfage.

We will deliver the stone at the building site for forty cents a cubic foot for those containing up to twenty cubic feet each, and one-half a cent a foot additional for those which contain more than twenty cubic feet each.

Yours, &c.,

GRIDLEY J. F. BRYANT,
Superintendent, Boston, Mass.

JOHN STIMSON,
Treasurer of the Rockport Granite Company.

NO. 22 STATE STREET, BOSTON, May 12, 1869.

DEAR SIR: We, the undersigned, owners of a good granite quarry, at Pigeon Cove, in the town of Rockport, Massachusetts, will lease the same to be worked by government for the sum of thirty-three cents per ton for all and every kind of stone taken out and shipped away, this to include all wharfage on the stone.

We will furnish foundation stone for the new post office at Boston, delivered on the spot, for the sum of five dollars per ton, or fifty or fifty-five and five-ninths cents per cubic foot for stone not above twenty cubic feet in a stone; for stone of twenty feet up to forty feet, ten cents additional; from forty to fifty feet, twenty cents additional per foot.

Respectfully,

G. J. F. BRYANT, Esq.

CLAPP, BALLOU & CO.

OFFICE GRANITE RAILWAY COMPANY,
31 Pemberton Square, Boston, May 17, 1869.

SIR: In reply to your note of the 8th instant, the Granite Railway Company decline to lease their quarry as therein suggested; but will furnish and deliver stones for the foundation of the proposed post office building for sixty-five cents per cubic foot, for twenty cubic feet in a single stone, and under; and one cent per foot for each additional foot ordered at above twenty cubic feet.

The undersigned will lease his quarry wharf at Rockport, Massachusetts, for \$5,000 per year; this sum to be paid if the government does not quarry the amount of stone hereafter mentioned per ton; but if the number of tons at one dollar per ton shall amount to more than five thousand tons, the government shall pay for each and every ton \$20 extra, over and above the \$5,000.

Very respectfully, &c.

G. J. F. BRYANT, Esq.,
Superintendent Post Office and Sub-Treasury Building.

O. E. SHELDON.

TREASURY DEPARTMENT, May 21, 1869.

SIR: I have to acknowledge the receipt of the answers to your proposals of the 28th ultimo for the stone for the new post office and sub-treasury building and other purposes.

Upon an examination of them I find that the Rockport Granite Company have made the lowest bid. You will, therefore, lease from them their quarry, and make a contract with them for stone, upon the terms stated therefor in the proposal and their acceptance. I have caused a lease and contract to be prepared covering those terms, which paper has been submitted to the Solicitor of the Treasury for his opinion, and he believes that the interests of the United States are therein sufficiently protected. You will, therefore, cause the lease and contract to be executed by the Rockport Granite Company, in due form, with the usual bond and penalty, a copy of which is sent herewith.

I have doubts if the quarry is of sufficient capacity; but as the stones exposed on the working faces are of good quality, you will see that the lease and contract require that the stone furnished the United States should be taken from that quarry. Of course you will accept no other or different quality of stone, except that so taken.

In case the Rockport Granite Company refuse or neglect to execute the lease and contract at once, and the required bond, you will then offer the same to the Cape Ann Granite Company, substituting their prices, as their bid is the next lowest received, and I inclose their proposal for that purpose. Indeed, from my examination and knowledge of both quarries, I should say that the Cape Ann Granite Company was preferable, even taking price into account.

As expedition and prompt delivery of the stone, and the facilities for the United States obtaining it, are of the utmost consequence, I wish to call your attention especially to the capacity for loading at the wharves which the lease requires, and to see to it that there be no doubt that such facilities are afforded by the wharves of the Rockport Granite Company.

under the terms of their lease, if they accept it, and the same rule will apply if the lease is offered to the Cape Ann Granite Company.

You will not trouble yourself in examining as to the title to the quarry, as the bond and forfeitures will be ample for the protection of the United States.

Please act promptly upon this, and have the lease, contract and bond executed at once, and returned to the department, for the formal approval of the Secretary.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT,
Superintendent Post Office, Boston, Mass.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION,
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, May 25, 1869.

SIR: I am directed by the Supervising Architect of the Treasury Department to notify you that the department has decided to lease from your company its quarry, and to make a contract with you for stone to be taken therefrom upon the terms stated in your communication of the 11th of May, in reply to my circular letter of the 28th of April, 1869. I inclose a lease and contract prepared by the department which you will please promptly execute in triplicate and return to me, accompanied by a bond in the sum of ten thousand dollars with sureties, as stipulated in the lease and contract. As the department is in immediate want of stone I must ask your prompt execution and return to me of the papers above referred to, and herewith inclosed.

Very respectfully, your obedient servant,

G. J. F. BRYANT,
Superintendent.

JOHN STIMSON, Esq.,
Agent Rockport Granite Company.

BOSTON, *May 26, 1869.*

MY DEAR SIR: Your letter of the 24th instant, inclosing a draught of a proposed contract and lease between the United States and the Rockport Granite Company, has been received.

On a careful examination of the proposed contract and lease, I find that my proposition of the 11th May has been misunderstood in several important particulars.

First. Your letter of April 28 related solely to the foundation for the post office and sub-treasury building, and my proposal was for the furnishing of such foundation stone simply, and the prices stated by me were upon that basis. The proposed contract gives you the right to take out such stone, in such sizes or such kinds, and in such quantity as you may require without any reference to the fact that the stone is to be such as is suitable for foundations. Under the proposed contract we might be compelled to furnish the entire superstructure at foundation stone prices.

Second. The Rockport Granite Company have several distinct quarries at Rockport in good working order, and a large quantity of personal property, tools, machinery, engines, vessels, carts, oxen, &c.; also dwelling-houses, stables, &c., and are doing a large and increasing business which they have no intention of giving up. The quarries owned by the company are capable of producing one hundred thousand tons of stone per annum, and we have ample facilities for quarrying and delivering that amount. We could not, therefore, consent to lease all our quarries to the government for so inadequate a sum as that mentioned in the proposed contract, as this sum might not amount, under the obligations which the government proposes to assume, to more than \$3,000 a year, which would be but one and a half per cent. on the capital of the company. The twenty acres which we propose to lease are but part of our lands. They are known as the Oregon Quarry, and the Hale & Knowlton quarry, and are better adapted than any on the Cape for the furnishing foundation stone. The proposal then being to lease twenty acres and to furnish sufficient wharf room, and the proposed contract being to lease all the land of the company and wharves for seven vessels at once, it is evident that the proposed contract and my proposition are widely different.

Third. My proposition was to lease the twenty acres, and did not include blacksmith shops, sheds, tool-houses, magazines for powder, engine and pump for clearing and working the quarry, and other machinery, all of which are included in the proposed contract. In case of a lease of quarry land, the lessee pays bankage and wharfage in the nature of a rent or royalty, and furnishes everything necessary to get the stone out.

Fourth. The draught of the contract contains a provision that contemplates two gangs of men working in the same quarry at the same time under different heads. This I consider impracticable, particularly if the men to be employed by the United States are to be paid ten hours' wages for eight hours work.

Fifth. The clause in regard to the grout we propose should read as follows: "And the grout made during said term to be removed by the party of the first part, and shall be thrown over such part of the breakwater on the premises belonging to the party of the second part as they shall direct, such place not to exceed one-half mile from the place whence such grout is taken." We propose this alteration because the breakwater, although lower than the greater part of the wharf road is higher than that part of the wharf road which runs from the shore end of the breakwater to the wharf. The breakwater is the most convenient place to put the grout, and there is a good road leading to the breakwater, and upon it.

Sixth. The corporate name of the company is "The Rockport Granite Company of Massachusetts." Its quarries are in Rockport, Essex County, Massachusetts.

To prevent further misapprehensions, we are willing to make any of the following propositions for foundation stone for the post office and sub-treasury building:

First. To lease to the government the Oregon and Hale & Knowlton quarries, containing about twenty acres, with sufficient wharves for loading the stone, for fifteen cents a ton bankage and five cents a ton wharfage, the government to be at the expense of getting the stone out and furnishing whatever may be necessary for this purpose, and for transporting the stone. The quarries to be worked in a proper and workmanlike manner, and the grout to be put over the breakwater, as proposed above in my fifth objection, and at least fifteen thousand tons of stone to be got out annually.

Second. Or we will agree to lease said Oregon and Hale & Knowlton quarries, we to get the stone out and to deliver it at the proposed building site in Boston as fast as it can be laid; we to receive the above-mentioned bankage and wharfage, and also forty cents a cubic foot for those stones containing up to twenty cubic feet each, and one-half cent a foot additional for each stone which contains more than twenty cubic feet; we to have the right to the exclusive possession of the quarries so long as we furnish the stone as fast as it can be laid. In case of our failure to deliver as fast as the stone can be laid, the government to have the right to take possession and to get out the stone at its own expense, paying the above rates for bankage and wharfage.

Third. Or we will agree to deliver the foundation stone at the site of the proposed building at the rates above mentioned per cubic foot, the government to have no lease of the quarries.

Any of the above propositions we are ready and abundantly able to carry out, and are willing to give bonds to any reasonable amount with all proper guarantees.

Respectfully yours,

JOHN STIMSON,
Treasurer of the Rockport Granite Company.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent of Construction of the Post Office and Sub-Treasury Building.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, May 28, 1869.

SIR: Your letter of the 22d instant, covering lease and contract to be executed by the Rockport Granite Company and by myself, on behalf of the United States, with instructions to cause the same to be executed by the Cape Ann Granite Company in case of "refusal or neglect" of the Rockport Granite Company to execute said instrument, came duly to hand.

Immediately on receipt of the foregoing communication, I inclosed the lease and contract to the Rockport Granite Company's treasurer, John Stimson, esq., accompanied by an official letter, bearing date May 25, a copy of which is herewith inclosed. In reply to this letter I have received the inclosed communication from Mr. Stimson, in his official capacity as treasurer of the Rockport Granite Company, bearing date May 26, declining to execute the lease and contract for reasons stated in said communication. Acting on your explicit instructions by your communication hereinbefore referred to, I immediately tendered to the Cape Ann Granite Company the lease and contract, they being the next lowest bidders under my circular letter of May 8, inviting proposals for leasing quarry and taking out stone therefrom, which lease and contract this company promptly executed, as well as myself, on behalf of the United States.

I inclose the triplicate copies of the lease and contract and of the bond given by the Cape Ann Granite Company, for the approval of the department, as required by the terms of the lease and contract. The Cape Ann Granite Company notify me that they are prepared to act promptly in procuring such stones as may be ordered by me or the department.

Waiting further instructions from the department, I have the honor to remain, with great respect, your obedient servant,

GRIDLEY J. F. BRYANT,
Superintendent.

A. B. MULLETT, Esq.,
Supervising Architect.

Lease and contract between the United States and the Rockport Granite Company of Rockport, Essex County, Massachusetts.

This indenture of lease and contract, made and entered into by and between Gridley J. F. Bryant, superintending architect of the treasury department of Boston, Massachusetts, for and in behalf of the United States of America of the first part, and the Rockport Granite Company, of the county of Essex, in said State, to which was awarded the lease of granite quarry and a contract for taking out and furnishing stone therefrom, upon their acceptance, by their agent, John Stimson, of proposals invited by Gridley J. F. Bryant by letter, dated April 28, 1869, of the second part, witnesseth: That the party of the second part, their successors and assigns, do hereby lease, demise, and let all their granite quarry situated in said Rockport, known as the quarry of the Rockport Granite Company, containing twenty acres, more or less, however the same may be described and bounded, together with their blacksmiths' shops, sheds, tool-houses, magazines for powder, and engine and pumps for clearing and working said quarry, as they are now or have heretofore been used in connection with said quarry; together with a wharf and wharfage for loading stone in vessels drawing at least nine feet of water, sufficient to accommodate not less than seven vessels of a hundred tons each at a time, and the roads and approaches to said wharf and quarry, to the sole and exclusive control and use, profit, and advantage of the party of the first part, with the right of taking out such granite and stone in such sizes, of such kinds, and in such quantity as the said party of the first part may direct to be taken out during the continuance of this lease; to have and to hold to the use of said party of the first part said quarry buildings, wharf, and wharfage, roads and approaches, engines and machinery, for the term of one year, with the right of renewal of this lease for a time not exceeding five years, or for such less time as the party of the first part may elect, upon the same terms and conditions by the party of the first part. And the said party of the first part, acting for and in behalf of the United States, doth covenant, promise, and agree to pay or cause to be paid unto the party of the second part, their successors, and assigns, as and for rent of said quarry, buildings, wharf and wharves, and wharfage, engines and machinery, roads and approaches, the sum of fifteen cents per ton of eleven cubic feet for each ton of stone which may be taken out by the agents of the party of the first part during said term or extended term of this lease: and also five cents per ton as and for wharfage for each ton of stone so by said party of the first part shipped from said wharf so leased during said term; said payments to be made quarter yearly, on the first days of July, October, January, and April, in the lawful money of the United States.

And the said party of the first part doth hereby covenant, promise, and agree to and with said party of the second part, their successors and assigns, that during said term said quarry shall be worked in a good and workmanlike manner, and the roads and approaches thereto, and the buildings thereon, kept in the same repair as they now are or may be put in by the party of the second part, to be returned at the expiration of said term, or said extended term, reasonable use, wear and tear, quantity of stone removed, fire and other unavoidable casualties excepted, and the grout made during said term to be removed by the party of the first part, to such place as shall be directed by the party of the second part, not exceeding one-half mile, provided no such place shall be designated which shall cause the removal of said grout over any elevation higher than the elevation of the roads between said quarry and said wharves. And the party of the second part doth covenant and agree with the party of the first part that they are lawfully seized in fee of the land, quarry, and wharves hereinabove mentioned, and they will, and their successors and assigns shall, maintain said party of the first part in possession and use of said leased property during the term and extended term of the same against the interference and hindrance of any party whatever. And the said party of the second part, their successors and assigns, further covenant and agree with the party of the first part, that said land, quarry, wharves, and wharfage are, to the extent and capacity herein above set forth and specified. And the said party of the second part, their successors and assigns, further covenant and agree with the party of the first part, that in case of a failure in fact or performance of any one or either of the covenants made or to be performed by said party of the second part, that this lease and contract shall become void in all its parts and conditions as to said party of the first part, and the forfeitures hereinafter set forth shall be incurred because thereof, in like manner and to the same extent as hereinafter set forth, as and for liquidated damages. And it is further covenanted and agreed by the party of the second part, its successors and assigns, that this lease shall be operative and the party of the first part shall have full possession and use of said quarry, buildings, wharves, roads, and approaches, as above specified, from and after seven days from the ensembling of this lease and contract. And it is further covenanted and agreed by the said party of the first part that they will take out or cause to be taken out under this lease at least fifteen thousand tons of stone yearly during said term or extended term, or pay bankage and wharfage as if said amounts were so taken out. And the party of the second part, their successors and assigns, do further covenant and agree and promise to and with the party of the first part, that the party of the second part will take out from said quarry and deliver at the site of the building being erected for the post office and sub-treasury at Boston, at such times as may be directed, stone of such sizes and dimensions as

the party of the first part may direct. And the party of the second part doth covenant and agree that while working said quarry and taking out the stone hereinabove specified, the party of the second part will work said quarry in compliance with and in performance of all the covenants of the party of the first part to be performed, keeping the buildings, tools, wharves and roads in repair as hereinbefore covenanted. And the party of the first part covenants and agrees to pay or cause to be paid to the party of the second part, its successors and assigns, the sum of forty cents per cubic foot for each cubic foot of stone so delivered as above contracted when the dimensions do not exceed twenty cubic feet in each stone, with half cent additional for every cubic foot in any single stone beyond said twenty cubic feet, each in good and lawful money of the United States; seventy-five per cent. of the price of the stone delivered in each month to be paid monthly, the remaining twenty-five per cent. when the whole amount required is furnished and the approval and acceptance of the whole by the superintendent given, which said amount or twenty-five per cent. shall be forfeited by the party of the second part in case of non-performance of this contract to the entire satisfaction of said superintendent.

And it is further covenanted and agreed by and between the parties to this contract, that nothing herein contained shall prevent the party of the first part from taking out stone from said quarry while said party of the second part is engaged in furnishing stone therefrom according to the provisions of this contract. It is further covenanted and agreed by and between the parties to this contract, that if from any cause whatever the said party of the second part should fail in required promptness in giving possession of said property, or any part thereof, or in delivering said stone by or within the time or times specified above, it shall become the duty of the said superintendent, and he shall be and hereby is authorized and empowered, after eight days' due notice thereof, left at the shop, office, or usual place of abode of the said party of the second part, or with his agent, without effect, to purchase and supply any deficiency in said delivery or said occupancy caused by the delinquency of said party of the second part, and the actual cost thereof, together with fifteen per cent. thereon, shall be deducted from any money due or owing to the said party of the second part on account of this contract; and if that amount be not due said party, then the bondsmen are to be held liable for any deficiency, to be recovered by them by suit in the name of the United States; or, the party of the first part may elect, that if the party of the second part should fail to furnish said stone, or give occupancy of property as aforesaid by or within the time or times specified above, that he shall forfeit the sum of one hundred dollars per diem for each and every day thereafter until the final completion of delivery or term of lease, which sum shall be deducted from any moneys which may be due said party; and if that amount be not due said party, then the bondsmen are to be held liable for any deficiency, to be recovered by them by suit in the name of the United States. It is further covenanted and agreed between the parties to this contract that the party of the second part shall execute, with two or more good and sufficient sureties, a bond to the United States in the sum of ten thousand dollars, conditioned for the faithful performance of this contract, and the agreements and covenants herein made by the party of the second part. It is also covenanted and understood, that no member of Congress or other person, whose name is not at this time disclosed, shall be admitted to any interest in this contract; and it is further covenanted and agreed that the contract shall not be assigned except by consent of the Secretary of the Treasury; and that any assignment thereof, except as aforesaid, will be a forfeiture of the same. It is further covenanted and agreed by and between the parties hereto, that this contract shall be valid and binding when approved by the Secretary of the Treasury and not otherwise, and no departure from its conditions shall be made without his written consent.

In witness whereof, the parties hereto have hereunto subscribed their names and affixed their seals, this _____ day of _____, A. D. eighteen hundred and sixty-nine.

_____, [SEAL.]
_____, [SEAL.]

Witnesses to the signature of the superintending architect:

Witnesses to the signature of the contractor and the lessor:

BOND.

Know all men by these presents, That we, _____, of the city of _____, county of _____, and State of _____, principal, and _____, of the city of _____, county of _____, and State of _____, and _____, of the city of _____, county of _____, and State of _____, sureties, are held and firmly bound unto the United States

of America in the sum of ———, to be paid in liquidated damages; for the payment of which, well and truly to be made to the United States, we bind ourselves, our heirs, executors, administrators, or assigns, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this ——— day of ———, A. D. 18—.

The condition of the above obligation is such, That if the above bound ——— shall well and truly perform all the covenants contained in a certain contract attached hereto, bearing date ———, A. D. 18—, between ———, for and in behalf of the United States, of the first part, and the said ———, of the second part, to furnish and deliver all the materials, and do and perform all the work required by said contract in constructing or completing the building authorized to be erected at ———, then the above obligation to be void; otherwise to remain in full force and virtue.

In testimony whereof, the said ——— have hereunto subscribed their hands and affixed their seals, the day first above written.

Signed, sealed, and delivered in presence of—

—————
—————

Lease and contract between the United States and the Cape Ann Granite Company, of Gloucester, Essex County, Massachusetts.

This indenture of lease and contract made and entered into by and between Gridley J. F. Bryant, superintending architect of the Treasury Department, of Boston, Massachusetts, for and in behalf of the United States of America, of the first part, and the Cape Ann Granite Company, of the county of Essex, in said State, to which was awarded the lease of granite quarry, and a contract for taking out and furnishing stone therefrom, upon their acceptance by the Cape Ann Granite Company, by Jonas H. French, of proposals invited by Gridley J. F. Bryant by letter dated May 8, 1869, of the second part, witnesseth: That the party of the second part, their successors and assigns, do hereby lease, demise, and let all their granite quarry situated in said Gloucester, known as the quarry of the Cape Ann Granite Company, containing seventy acres, more or less, however the same may be described and bounded, together with their blacksmith shops, sheds, tool-houses, magazines for powder, and engine and pumps for clearing and working said quarry as they are now or have heretofore been used in connection with said quarry, together with a wharf and wharfage for loading stone in vessels, drawing at least nine feet of water, sufficient to accommodate not less than seven vessels of a hundred tons each at a time, and the roads and approaches to said wharf and quarry, to the sole and exclusive control and use, profit and advantage of the party of the first part, with the right of taking out such granite and stone in such sizes, of such kinds and in such quantity as the said party of the first part may direct to be taken out during the continuance of this lease, to have and to hold to the use of said party of the first part said quarry buildings, wharf and wharfage, roads and approaches, engines and machinery for the term of one year, with the right of the renewal of this lease for a time not exceeding five years, or for such less time as the party of the first part may elect, upon the same terms and conditions by the party of the first part. And the said party of the first part, acting for and in behalf of the United States, doth covenant, promise, and agree to pay, or cause to be paid, unto the party of the second part, their successors and assigns, as and for rent of said quarry, buildings, wharf and wharves and wharfage, engines and machinery, roads and approaches, the sum of fifteen cents per ton of eleven cubic feet for each ton of stone which may be taken out by the agents of the party of the first part during said term or extended term of this lease, and also ten cents per ton as and for wharfage for each ton of stone so by said party of the first part shipped from said wharf so leased during said term, said payments to be made quarter-yearly on the 1st days of July, October, January, and April, in the lawful money of the United States. And the said party of the first part doth hereby covenant, promise, and agree to and with said party of the second part, their successors and assigns, that during said term said quarry shall be worked in a good and workmanlike manner, and the roads and approaches thereto and the buildings thereon kept in the same repair as they now are or may be put in by the party of the second part, to be returned at the expiration of said term, or extended term of said extended term, reasonable use, wear and tear, quantity of stone removed, fire and other unavoidable casualties excepted; and the grout made during said term to be removed by the party of the first part to such place as shall be directed by the party of the second part, not exceeding one-half mile, provided no such place shall be designated which shall cause the removal of said grout over any elevation higher than the elevation of the roads between said quarry and said wharves. And the party of the second part doth covenant and agree with the party of the first part that they

are lawfully seized in fee of the land, quarry, and wharves hereinbefore mentioned, and they will, and their successors and assigns shall, maintain said party of the first part in possession and use of said leased property during the term and extended term of the same against the interference and hindrance of any party whatever. And the said party of the second part, their successors and assigns, further covenant and agree with the party of the first part that said land, quarry, wharves, and wharfage are to the extent and capacity hereinabove set forth and specified. And the said party of the second part, their successors and assigns, further covenant and agree with the party of the first part that in case of a failure in fact or performance of any one or either of the covenants made or to be performed by said party of the second part, that this lease and contract shall become void in all its parts and conditions as to said party of the first part, and the forfeitures hereinafter set forth shall be incurred because thereof, in like manner and to the same extent as hereinafter set forth as and for liquidated damages. And it is further covenanted and agreed by the party of the second part, its successors and assigns, that this lease shall be operative, and the party of the first part shall have full possession and use of said quarry, buildings, wharves, roads and approaches, as above specified, from and after seven days from the ensealing of this lease and contract. And it is further covenanted and agreed by the said party of the first part that they will take out, or cause to be taken out, under this lease, at least fifteen thousand tons of stone yearly during said term or extended term, or pay bankage and wharfage as if said amounts were so taken out. And the party of the second part, their successors and assigns, do further covenant, agree, and promise to and with the party of the first part that the party of the second part will take out from said quarry and deliver at the site of the building being erected for the post office and sub-treasury at Boston, at such times as may be directed, stone of such sizes and dimensions as the party of the first part may direct. And the party of the second part doth covenant and agree that while working said quarry and taking out the stone hereinabove specified the party of the second part will work said quarry in compliance with and in performance of all the covenants of the party of the first part to be performed, keeping the buildings, tools, wharves, and roads in repair, as hereinbefore covenanted. And the party of the first part covenants and agrees to pay, or cause to be paid, to the party of the second part, its successors and assigns, the sum of forty-five cents per cubic foot for each cubic foot of stone so delivered, as above contracted, when the dimensions do not exceed twenty cubic feet in each stone, with one cent additional for every cubic foot in any single stone beyond said twenty cubic feet each, in good and lawful money of the United States, seventy-five per cent. of the price of the stone delivered in each month to be paid monthly, the remaining twenty-five per cent. when the whole amount required is furnished, and the approval and acceptance of the whole by the superintendent given, which said amount of twenty-five per cent. shall be forfeited by the party of the second part in case of non-performance of this contract to the entire satisfaction of said superintendent. And it is further covenanted and agreed by and between the parties to this contract, that nothing herein contained shall prevent the party of the first part from taking out stone from said quarry while said party of the second part is engaged in furnishing stone therefrom according to the provisions of this contract. It is further covenanted and agreed, by and between the parties to this contract, that if, from any cause whatever, the said party of the second part should fail in required promptness in giving possession of said property, or any part thereof, or in delivering said stone by or within the time or times specified above, it shall become the duty of the said superintendent, and he shall be, and hereby is, authorized and empowered, after eight days' notice thereof, in writing, left at the shop, office, or usual place of abode of the said party of the second part, or with his agent, without effect, to purchase and supply any deficiency in said delivery or said occupancy caused by the delinquency of said party of the second part, and the actual cost thereof, together with fifteen per cent. thereon, shall be deducted from any money due or owing to the said party of the second part on account of this contract; and if that amount be not due said party, then the bondsmen are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States. Or the said party of the first part may elect, that if the party of the second part should fail to furnish said stone or give occupancy of property as aforesaid, by or within the time or times specified above, he shall forfeit the sum of one hundred dollars per diem for each and every day thereafter until the final completion of delivery or term of lease, which sum shall be deducted from any moneys which may be due said party; and if that amount be not due said party, then the bondsmen are to be held liable for any deficiency, to be recovered of them by suit in the name of the United States. It is further covenanted and agreed between the parties to this contract that the party of the second part shall execute, with two or more good and sufficient sureties, a bond to the United States in the sum of a thousand dollars, conditioned for the faithful performance of this contract and the agreements and covenants herein made by the party of the second part. It is also covenanted and understood that no member of Congress, or other person whose name is not at this time disclosed, shall be admitted to any interest in this contract. And it is further covenanted and agreed that this contract shall not be assigned, except by consent of the Secretary of the Treasury, and that any assignment thereof, except as aforesaid, will be a forfeiture of the same. It is further covenanted and agreed by and between the parties hereto that this contract shall be

valid and binding when approved by the Secretary of the Treasury, and not otherwise, and no departure from its conditions shall be made without his written consent.

In witness whereof the parties hereto have hereunto subscribed their names and affixed their seals this twenty-seventh day of May, A. D. eighteen hundred and sixty-nine.

{ Int. rev. stamp, }	GRIDLEY J. F. BRYANT, <i>Superintendent.</i>	[SEAL.]
{ 25 cents. }	CAPE ANN GRANITE COMPANY.	[SEAL.]

By JONAS H. FRENCH.

Witnesses to the signature of the superintending architect:

LOUIS W. ROGERS,
CHARLES O. STEARNS.

Witnesses to the signature of the contractor and lessor:

CHAS. A. JORDAN,
J. G. QUICKVAN.

BOND.

Know all men by these presents, that we, Cape Ann Granite Company, by Jonas H. French, of the city of Boston, county of Suffolk, and State of Massachusetts, principal, and William Edward French, of the city of Boston, county of Suffolk, and State of Massachusetts, and Seth Eastman Pecker, of the city of Boston, county of Suffolk, and State of Massachusetts, sureties, are held and firmly bound unto the United States of America in the sum of ten thousand dollars, to be paid in liquidated damages, for the payment of which, well and truly to be made to the United States, we bind ourselves, our heirs, executors, administrators, or assigns, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this 27th day of May, A. D. 1869.

The condition of the above obligation is such, that if the above-bound Cape Ann Granite Company shall well and truly perform all the covenants contained in a certain lease and contract attached hereto, bearing date May 27, A. D. 1869, between Gridley J. F. Bryant, for and in behalf of the United States, of the first part, and the said Cape Ann Granite Company, of the second part, to furnish and deliver all the materials, and do and perform all the work required by said lease and contract in constructing or completing the building authorized to be erected at Boston, Massachusetts, then the above obligation to be void; otherwise to remain in full force and virtue.

In testimony whereof, the said Cape Ann Granite Company, by Jonas H. French, William Edward French, and Seth Eastman Pecker, have hereunto subscribed their hands and affixed their seals the day first above written.

CAPE ANN GRANITE Co.,	
By JONAS H. FRENCH.	[SEAL.]
WM. E. FRENCH.	[SEAL.]
SETH E. PECKER.	[SEAL.]

Signed, sealed, and delivered in presence of--
JOHN C. ROPES.

To J. H. F., W. E. F., and S. E. P.,
A. H. BURNELL.

STATE OF MASSACHUSETTS,

County of Suffolk, City of Boston, ss:

Personally appeared before me, a justice of the peace in and for said city of Boston, the said Jonas H. French, William Edward French, and Seth Eastman Pecker, who signed the above obligation, and who made solemn oath that they are each worth ten thousand dollars over and above their legal liabilities.

Sworn to and subscribed as above written this 27th day of May, A. D. 1869, before me.

JOHN C. ROPES,
Justice of the Peace.

OFFICE OF THE UNITED STATES DISTRICT ATTORNEY,
District of Massachusetts, Boston, May 27, A. D. 1869.

I hereby certify that William E. French and Seth E. Pecker, the sureties who have signed the foregoing bond, are known to me as residents of Boston, and citizens of the United States, and that I believe them to be amply sufficient security for the amount thereof, and that the bond is good.

G. S. HILLARD,
U. S. Attorney.

TREASURY DEPARTMENT, *June 1, 1869.*

SIR: Inclosed you will find a correspondence between Gridley J. F. Bryant, superintendent of the post office building, Boston, and John Stimson, treasurer of the Rockport
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Granite Company: also a contract which was submitted to said Stimson by the department for his signature, based upon said proposal. You will also find among the papers inclosed a letter from Mr. Stimson, in which he declines to sign the contract upon the ground that it does not conform to the proposal made by him.

I wish you to examine the proposal, and also the contract as prepared, and furnish me with your opinion, in writing, upon the question raised by Mr. Stimson, whether the contract, as prepared and submitted for his signature, was in conformity with the proposal; and if not, wherein it differs.

I understand from Mr. Mullett that portions of the paper submitted to Mr. Stimson as a contract have been incorporated into a contract with William E. French and Seth E. Pecker; but as all the papers are inclosed, I presume you will be able to ascertain exactly the character of the original submitted to Mr. Stimson.

Very respectfully,

[GEO. S. BOUTWELL,
Secretary.

Hon. E. C. BANFIELD,
Solicitor of the Treasury.

TREASURY DEPARTMENT, *June 3, 1869.*

SIR: Having in mind the letter written to you on the 1st instant, I desire to have you consider, also, whether the proposed contract with Mr. Stimson was drawn in conformity to the letter of Gridley J. F. Bryant, of the 28th of April last, soliciting proposals for granite; and if not, wherein it differs from that letter. This question I desire to have you answer in addition to the one proposed in the communication of the 1st instant.

Very respectfully,

GEO. S. BOUTWELL,
Secretary.

Hon. E. C. BANFIELD,
Solicitor of the Treasury, Washington, D. C.

TREASURY DEPARTMENT,
Solicitor's Office, June 9, 1869.

SIR: I have the honor to acknowledge the receipt of your two letters, one of the 1st and the other of the 3d instant, relative to questions arising between the Rockport Granite Company and the government agents engaged in the construction of the post office and the sub-treasury building at Boston, Massachusetts.

Your first letter transmits correspondence between the superintendent of the building and John Stimson, treasurer of the company; also a contract which was submitted to said Stimson, based upon his proposal, and his letter declining to sign this instrument, alleging that it did not conform to his proposal; and you request my opinion as to whether or not the contract is in conformity with the proposal; and if not, wherein it differs.

By your last letter the further question is submitted as to whether the proposed contract is in conformity with the letter of Gridley J. F. Bryant, of the 28th of April last, soliciting proposals for granite; and if not, wherein it differs.

In proceeding to answer your first question, I desire to notice that it is shown by Mr. Stimson's letter that he only intended his proposal to apply to "stone for the foundation" of the building, whereas the contract stipulates that the government shall have "the right of taking out such granite and stone, in such sizes, of such kinds, and in such quantity" as it may direct. Taking the contract by itself, the United States might, from the quarry leased, take stone for the entire building, and for other purposes. The words "foundation stone for the proposed building" are employed by Mr. Stimson, but they occur nowhere in the draught of the contract. If the contract were limited by Mr. Bryant's letter so that no stone could be taken except for the foundation, then it might be considered as more in harmony with the proposal; but as it stands, I do not think it is drawn in such a manner as to preclude the government from taking what kind of, and as much, stone as it desires, and to use it in the foundation or elsewhere.

Mr. Stimson's proposal is to "furnish sufficient wharves to load the stone on board the vessel from," while the contract stipulates for a "wharf and wharfage for loading stone in vessels drawing at least nine feet of water, sufficient to accommodate not less than seven vessels, of a hundred tons each, at a time."

Mr. Stimson says, "There is about twenty acres of quarry land which we propose to lease to the government."

By the terms of the contract they "let all their granite quarry, situated in said Rockport, known as the quarry of the Rockport Granite Company, containing twenty acres, more or less, however the same may be described and bounded, together with their blacksmith shops,

sheds, tools, houses, magazines for powder, and engine and pumps for cleaning and working said quarry, as they are now or have heretofore been used in connection with such quarry."

Mr. Stimson, in his letter to Mr. Bryant of the 26th of May last, says: "The Rockport Granite Company have several district quarries at Rockport in good working order, and a large quantity of personal property, tools, machinery, engines, vessels, carts, oxen, &c., also dwelling-houses, stables, &c., and are doing a large and increasing business, which they have no intention of giving up." * * * "The twenty acres which we propose to lease are only a part of our lands. They are known as the Hale and Knowlton quarry, and are better adapted than any other on the cape for the furnishing foundation stone."

The explanation of Mr. Stimson, that the company have several quarries at Rockport, makes it evident that it was never contemplated in the proposal to lease so large an amount of property as is named in the contract. Nor is it supposable that the fact of there being a number of district quarries of the company at Rockport was known to the person who draughted the lease. Mr. Stimson knew the situation of the quarries, but there would seem to have been but little examination of them by the government agents, or more definite terms would have been used.

The proposal names so much quarry land; the contract, in stipulating for a large amount of personal property, went further than the proposal warranted. If the proposal had named which of its quarries it had in view, so that it might have been described, there would have been less risk of a misunderstanding.

The circular letter of Mr. Bryant commences with the recital that "the government are about putting in a foundation for the post office and sub-treasury building in Boston." It afterward requests the company to "make proposals in writing at what rate they will lease their quarry to the United States per ton bankage, or the right to take out stone from the quarry of such size and in such quantities as they may need."

Now, the contract says nothing as to the foundation, but it uses nearly the same words as are last above quoted in defining the extent of its rights in the granite.

The circular and the contract are the same as to the quantity of wharfage. Nothing but a quarry is named by the circular as the subject to be leased, while the contract, as has been seen, annexes much other property. The lease may be said to follow the circular more closely than the proposal, although no two of the documents under consideration are marked by that precise similarity of terms and conditions which ought to be found in such cases.

The inclosures are herewith returned.

I am, very respectfully,

E. C. BANFIELD,
Solicitor of the Treasury.

HON. GEO. S. BOUTWELL,
Secretary of the Treasury.

[Indorsed on the foregoing.]

E. C. Banfield, Solicitor of the Treasury, June 9, 1869, relative to questions arising between the Rockport Granite Company and government agents engaged in the construction of the post office at Boston.

The Supervising Architect is directed to issue new proposals more specific in character, so that the contract with the successful bidder may conform to the proposals.

G. S. B.

JUNE 9, 1869.

[Telegram.]

TREASURY DEPARTMENT, June 14, 1869.

GRIDLEY J. F. BRYANT,
Superintendent Post Office, Boston, Massachusetts:

Meet me in Boston Wednesday morning.

A. B. MULLETT,
Supervising Architect.

TREASURY DEPARTMENT, June 14, 1869.

SIR: Complaint has been made to the Secretary of the Treasury that your circular letter of the 28th of April, inviting proposals for leasing to the government a granite quarry, and quarrying and delivering therefrom, at the site of the new post office and sub-treasury building, stone for the foundations, was not sufficiently explicit, and that in consequence thereof the bidders were "misunderstood in several important particulars."

The Secretary, being desirous that no injustice should be done, and that all parties having a suitable quarry, and being desirous of leasing the same to the government, should have an opportunity to submit a proposal, and that there should be no misunderstanding in regard thereto, has directed me to issue new proposals, more specific in character, so that the contract with the successful bidders may conform to the proposals. I have, therefore, prepared the inclosed letter, which, it appears to me, will furnish the desired information and conform to the direction of the Secretary. You will please address copies to such persons as may have quarries that will meet the conditions of the inclosed letter, and require sealed proposals from them, which you will open in the manner prescribed by your general instructions, or advertise for proposals at your discretion.

An early decision is important; you will therefore fill the blank in my letter with the earliest date that will, in your opinion, give ample time for all parties to submit a proposal, and will have a blank form of lease and contract prepared for the inspection of bidders. You will please, in forwarding your report, recommend the acceptance or rejection of any or all bids received, as you may deem best for the interests of the government.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT,
Superintendent Post Office and Sub-Treasury, Boston, Massachusetts.

SIR : The government is desirous of leasing for the term of one year, with the privilege of four annual renewals thereof on the same terms, a quarry of light colored granite, free from iron or other coloring matter, suitable for the foundations and superstructure of buildings similar in character to the proposed new post office and sub-treasury building to be erected in this city, to be capable of yielding, at easy access, not less than one hundred thousand tons of granite, and tested as to capacity and quality of stone, and to be in proper working order and fully provided with engines and engine houses, pumps, derricks, blacksmith shops, sheds, tool houses, magazines for powder, stables, and all other usual and necessary adjuncts to a first class quarry, tools alone excepted. The machinery, &c., aforesaid to be sufficient in amount and capacity for the successful working thereof to the carrying capacity of seven vessels of one hundred tons each.

And in connection with said quarry the sole and exclusive use of wharves and wharfage sufficient to accommodate at one time at least seven vessels of one hundred tons each, drawing nine feet of water. The government to quarry or cause to be quarried not less than fifteen thousand tons of stone per annum, or in default thereof to pay bankage and wharfage as if such an amount had been quarried, and to work said quarry during the period of said lease in a good and workmanlike manner, removing the grout to such point as may be agreed on, provided it shall not be removed more than half a mile or over an elevation higher than the road to the wharf. Proposals to state the price per ton bankage, and also the price per ton wharfage, which is to be in full of all claims whatever. The amount of rent being determined by the bankage and wharfage of the stone actually taken out by the United States, its agents, or employés.

The government desires in addition to procure proposals for the quarrying from the quarry so leased, and delivering at the site of the new post office and sub-treasury building in this city, fifteen thousand tons (more or less) of stone for the foundations of the post office and sub-treasury building, the price to be per cubic foot for stone not above twenty cubic feet each, with the additional price per cubic foot for stone above that size, and to include quarrying and delivery at the site of the building, and to be in excess of the bankage and wharfage aforesaid. The government reserves the right to work the quarry at the same time for any other purpose. Understanding that your quarry will meet these requirements, and that you are willing to lease the same, I respectfully solicit a sealed proposal from you for leasing the same and for delivering the stone as aforesaid. The proposal to be submitted by 12 o'clock m., on the ———, when they will be opened and a decision made. A penal bond in the sum of ten thousand dollars to accompany your proposal, conditioned that a lease and contract in accordance with this letter will be executed by you.

A blank form of the lease and contract to be executed by the successful bidder can be seen at the office of the superintendent of the new post office and sub-treasury building, at 55 Devonshire street, in this city.

The department reserves the right to reject any or all proposals submitted, or to accept the lease without accepting the proposal to quarry and deliver the stone for the foundations. In case of an acceptance by the government of any proposal to lease, the quarry, buildings, wharves, and equipments required by this letter must be surrendered to the government in proper working order within seven days from the signing of the lease.

BOSTON, June 22, 1869.

DEAR SIR: I have to acknowledge the receipt of your proposals in behalf of the United States of the 18th instant. Recalling your attention to the fact that I have already signed and executed on behalf of the Cape Ann Granite Company a lease and contract of their quarry in Gloucester, Massachusetts, and given bonds required according to the proposals heretofore made, and protesting that the Cape Ann Granite Company ought to be allowed to fulfill said contract according to the terms thereof, I again offer to lease the same quarry, with its sheds, stables, pumps, engines, and wharfage for seven vessels, drawing at least nine feet of water, for one year, with the privilege of renewal to five, for the sum of fifteen cents bankage and ten cents wharfage for each ton of stone taken from said quarry by the United States, its agents or employes—the amount to be taken out to be not less than fifteen thousand tons per annum, to be paid for according to the terms of your proposals.

I propose to contract to take from the quarry so leased by the United States, or any other as eligibly situated, and in the same working order, according to the terms of your proposals, foundation stone, and deliver the same at the site of the proposed post office building, in Boston, at thirty-nine and three-quarter cents per cubic foot, of such dimensions not exceeding twenty cubic feet as may be ordered, and one cent additional for each cubic foot of every stone above such dimensions, and to give bonds in the penal sum required in sufficient sureties for the faithful performance of the contract in the form required, which I have examined at your office.

I have the honor to be your obedient servant,

JONAS H. FRENCH,
In behalf of Cape Ann Granite Company.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent, &c., Boston.

P. S.—I am unable at present to present with this the required bond, as the United States district attorney, whose approval is necessary, is sick and unable to attend to his duties.

J. H. F.

BOSTON, June 22, 1869.

SIR: Under your circular letter of June 18, 1869, I propose to lease to government my quarry at Rockport, with the wharf, stables, sheds, office, blacksmith shops, houses, &c., for the term of one year, with the privilege of four annual renewals, if the government should quarry and take out stone to the amount of fifteen thousand tons. They are to pay me thirty cents per ton, and to pay me to that amount on fifteen thousand tons, whether they quarry them or not. If they quarry more than fifteen thousand tons they are to pay me fifteen cents per ton for all tons over the fifteen thousand tons.

I also propose to furnish and deliver fifteen thousand tons of foundation stone (more or less) for fifty cents per cubic foot, with or without leasing the quarry, stone to be delivered at site for post office and sub-treasury building. All stone containing more than twenty cubic feet one cent per cubic foot to be added.

Yours, respectfully,

O. E. SHELDON.

P. S.—I have called to have the district attorney approve the bond, was told he was sick. I have no way of getting it executed.

O. E. S.

G. J. F. BRYANT,
*Superintendent of Construction Boston Post Office
and Sub-Treasury Building.*

BOSTON, June 22, 1869.

SIR: Your letter of the 18th instant has been received. In reply to it, I have to say that I am prepared to make the following offer, viz: To lease within the time specified the quarries known as the "Oregon" quarry and the "Hale and Knowlton" quarry, at Rockport, containing about twenty acres, together with the engine prepared for hoisting and pumping; a four-inch pump, with a sufficient quantity of pipe for pumping; two derricks, a blacksmith shop and forge, a powder magazine, sufficient barn room, and sufficient wharfage.

The quarry is in good working order, with no rubbish to be removed, and within a third of a mile of the wharf; and the engine, pump, derricks, &c., are in good order.

I will lease the above at the rate of thirty cents a ton bankage, and five cents a ton wharfage. The government to get out at least fifteen thousand tons a year, and the grout to be thrown over the breakwater. The quarries to be worked in a workmanlike manner, and to be returned at the expiration of the lease, together with the engine, pumps, derricks, &c., in as good order as when received, reasonable use, wear, and tear, quantity of stone removed, fire, and other unavoidable casualties excepted.

I will also agree to lease said Oregon and Hale and Knowlton quarries, we to get the stone out and to deliver it at the proposed building site in Boston, as it may be required; we to receive the above-mentioned bankage and wharfage, and also forty cents a cubic foot for those stone containing up to twenty cubic feet each, and one-half a cent a foot additional for each stone which contains more than twenty cubic feet; we to have the right to the exclusive possession of the quarries so long as we furnish the stone as fast as required. In case of our failure to deliver the stone as fast as required, the government to have the right to take possession, and to get out the stone at its own expense, paying the above rates for bankage and wharfage.

Either of the above propositions I am ready and abundantly able to carry out, and am willing to give bonds to any reasonable amount, with all proper guarantee.

The above quarries which I propose to lease are also suitable for furnishing the upper structure of the proposed building, and if leased to the government could be used for that purpose.

Stone can be freighted from the wharves of the company from ten to twenty-five cents a ton cheaper than from other wharves on the cape.

Very respectfully,

JOHN STIMSON,
Treasurer of the Rockport Granite Company.

Witness: EDW. T. GRAY.

G. F. T. BRYANT, Esq., *Superintendent.*

The penal bond will be sent in this afternoon as soon as can be obtained.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, June 23, 1869.

SIR: Your letter of instructions of June 14, notifying me that the Secretary of the Treasury had directed you to issue new proposals for leasing a quarry, and procuring therefrom stone for the foundations of this building, accompanied by your circular letter, to be addressed by me to such parties as in my judgment should be invited to tender for said works, was duly received.

Immediately on the receipt of these instructions, I addressed invitations to the following parties, to wit: The Rockport Granite Company, the Cape Ann Granite Company, Messrs. Clapp & Ballou, and O. E. Sheldon; these parties being the same who tendered propositions under the first invitation issued by me, (under instructions from the department,) bearing date April 28, 1869, filling the blank in your circular letter as directed by you in your communication of the 14th instant, as of Wednesday, the twenty-third day of June, 1869, "at 12 m.," that being ample time, in my judgment, for these parties to form their opinions and make their proposals. The inclosed proposals were received previous to 12 o'clock m. of this day, as required, and opened in the presence of the postmaster of this city at five minutes after 1 p. m. The Cape Ann Granite Company being the lowest bid received, both for leasing quarry and procuring stone therefrom, and my recommendation being required by your letter of the 14th instant, I respectfully recommend the acceptance of the Cape Ann Granite Company's proposition.

Very respectfully, your obedient servant,

GRIDLEY J. F. BRYANT,
Superintendent.

A. B. MULLETT, Esq.,

Supervising Architect, Washington, D. C.

P. S.—At twenty minutes of 2 p. m. to-day, and while preparing the foregoing letter, the inclosed sealed communication was handed in to this office by a messenger from Mr. Stimson, treasurer of the Rockport Granite Company, with a verbal statement by the messenger that it was a proposition, and that Mr. Stimson regretted the delay in handing it in. To this statement I replied that the propositions for the stone had been opened, and I must therefore decline to receive it in my capacity of agent of the United States, believing it to be my duty to refer it to the department.

BOSTON, June 23, 1869.

DEAR SIR: Since I inclosed the letter to you about the abrupt manner of the resident architect, when the proposal was left at the office of the new post office and sub-treasury, it occurs to me that the proposal from Mr. Stimson, agent, was not in reply to what was asked, for that paper from Mr. Bryant was for a proposition to lease our large quarry and all the property connected with it, except the tools. We never offered to lease that property, and so stated before, and could not reply again that we would lease it; and they knew

perfectly well that we would not lease it, because they knew it would ruin our company to give such a lease, and it was folly to ask us to tie up so large a property, doing so much business, and to receive only \$3,000 through the source of the architect. You said to me, "You may propose your other quarry, and offer what is required with it." This is done. But as it is not in accordance with the request from the architect, so I don't see why any limitation of time, or anything else, of necessity, should be applied to the proposition I inclose to you to-day—an hour later than his time limited can make no difference; and we will give you bonds for one hundred thousand, if you wish that the contract shall be fulfilled promptly to the letter. We wish to show the government that they can get contracts performed promptly, and that the architect need not cast this slur upon the Rockport Company, if they do upon others.

I telegraphed to you in regard to their refusal to receive the letter, so that you should know a proposition had been made.

Truly,

JOHN GARDNER.

Hon. GEO. S. BOUTWELL,
Secretary of the Treasury.

BOSTON, June 23, 1869.

DEAR SIR: I inclose a duplicate copy of a proposal to furnish the granite for the post office and sub-treasury, from the Rockport Granite Company. Owing to the absence of one of the officers, it could not be sent in promptly at 12 o'clock to-day, but was delivered at the office at 1.30 o'clock. There were several in the office, Mr. Bryant, Mr. French, and others. They indignantly refused to accept it, and said if any further action in the matter was wanted by the company, they must correspond with the Secretary direct, and refused to open the letter. But it was left with them. I am requested, therefore, to send the proposal to you, presuming, as all is subject to your rejection or approval, we shall have the same consideration and decision from you, notwithstanding the hour and a half delay. Any amount of bonds will be given to make sure the fulfillment of the contract.

As I understand the present wants are only for the foundation; no further contracts are necessary till further appropriations are made.

Granite may be had for less another year; labor and other things may be less.

Yours truly,

JOHN GARDNER.

Hon. GEO. S. BOUTWELL,
Secretary Treasury, Washington, D. C.

BOSTON, June 23, 1869.

DEAR SIR: I returned from Rockport this morning and visited the quarries. The French quarry, near General Butler's, has recently been furnished with an engine, standing out in the rain, pumping out the deep quarry, which was full of water; also a blacksmith shop, sheds, and two extra derricks; one is up, and the other is on the ground. I did not see a powder house. I was told they have taken a lease of a barn near by. My impression that they had none of these things when our last proposition was made was mainly correct. The deep water, nine feet for seven sloops at their wharves, they have not got; but they have wharf room enough to load their vessels and float them at high water, but cannot float any loaded vessel at low tide; perhaps they may have one berth at their wharf that would give them about eight to nine feet of water at high tide. The objection to sailing or leaving only at high water is, they lose time by waiting on tide to float and be off, and the objection to this position on the north side of the cape is that all the north, northeast, east and southeasterly winds blow in the cape or up the bay or head round the point, so that vessels have head winds, and often cannot get out of the bay, and after heavy northeasters, the sea will be so rough they cannot get out for some time after a storm is over. At any time it is more expensive to freight round the cape to Boston, by about twenty to twenty-five cents a ton, than from the south side. I am told it is seven to ten miles further, according to the distance they keep off from the shore. It is rather bad navigation round there. They have but one place open and worked that would be called a quarry. That has one deep place in it covered or filled with water, and here I was told they may get out a limited quantity of good quality of stone, but I was told that it fills with water easily from a piece of marsh ground close by, which runs into the quarry and makes it more expensive to pump out. In this quarry is a great deal of rubbish or grout, that must be removed at great expense before much good stone can be got out, and the good stone depends upon what may turn up after the top is taken off; it may be full of seams or spotted, not clear, good, white color, fit for anything but foundation. Then they are at work opening new places, or moving off the top and rubbish to see what they can find that will do to work. One place they have abandoned, and all may be doubtful of being good and worth opening deep down for a regular quarry, but all this opening is expensive and requires a great deal of grout, or rubbish, stones, loam, gravel, &c., to be carted away, and most all the top stones, too, are too poor

for any kind of use. This quarry, I was told by several quarrymen, was a full half of a mile from the wharf, and I think from riding over it twice it is all that, and a pretty hard, rough road too. This disadvantage the government would find, if they supplied the laborers, oxen, feed, tools, wagons, fuel, and everything that is required to keep the quarry in order, and supplying the losses and wear and tear, and the hauling of the immense amount of grout, a half a mile, to tip over the end of their wharf, so as to extend it three hundred feet, to make a breakwater for which they have a charter to make, and I was told General Butler has said should be built, when that is extended the owners of the wharves get all the benefit of it without any expense, and the government will have to cart the grout to do it, besides the extra expense of freighting the stone round the cape will be equal to twenty cents the ton, and then what the government does in clearing and opening the mine inures to the benefit of the owners. Besides this, if the government employ a gang of hands working eight hours the day, the effect will be very bad upon all the labor on the cape.

The quarry the Rockport Granite Company offer you is very near the wharf; one team will haul the distance twice to the other once. Then there is no grout to take away, only what is made from chipping the blocks to be got out, and there is an acre of fine granite all uncovered, open, and clear to work, besides the sides of the quarry where the stone may be split off without any delay. The government can get their stone from this quarry very much less than from any other.

Very respectfully,

JOHN GARDNER,
Treasurer.

Hon. GEO. S. BOUTWELL,
Secretary of the Treasury, Washington, D. C.

[Telegram.]

TREASURY DEPARTMENT, *June 23, 1869.*

GRIDLEY J. F. BRYANT,
Superintendent of Post Office and Sub-Treasury, Boston, Mass. :

Telegram received ; forward all proposals, including Stimson's, with full report ; will submit case to Secretary.

A. B. MULLETT,
Supervising Architect.

[Telegram.]

TREASURY DEPARTMENT, *July 3, 1869.*

GRIDLEY J. F. BRYANT, Esq.,
Superintendent of Post Office and Sub-Treasury, Boston, Mass. :

Tell Colonel French, lease of Cape Ann Company unavoidably detained until Tuesday.

A. B. MULLETT,
Supervising Architect.

TREASURY DEPARTMENT, *July 6, 1869.*

MY DEAR SIR : You will receive by this day's mail a form of a contract between yourself, as superintending architect of the new post office and sub-treasury building at Boston, Massachusetts, and the Cape Ann Granite Company, of Gloucester.

This contract is authorized by me in the expectation, and upon the distinct understanding, that the granite to be obtained from this quarry is suitable for the superstructure as well as for the foundation ; and if, in your judgment, it is not so suited, I desire that you shall so report before the contract is consummated.

If you have not already examined the quarry, it seems to me that you should do so before further steps are taken.

Very respectfully,

GEO. S. BOUTWELL,
Secretary.

GRIDLEY J. F. BRYANT, Esq.,
Boston, Massachusetts.

TREASURY DEPARTMENT, *July 6, 1869.*

SIR : Inclosed please find lease and contract between the United States and the Cape Ann Granite Company, for their quarry and for quarrying and delivering fifteen thousand tons of

stone for foundations of the post office building under your charge. I also inclose a letter from the Secretary of the Treasury to you, in which you will perceive that he does not desire the lease executed unless, in your opinion, the stone is suitable for the superstructure of the building.

I have told the Secretary that this letter of his cannot affect the result, the same stone having been used in the Boston Post building adjoining, and that it is entirely satisfactory to me. Should I, however, be mistaken as to your opinion in regard to this stone, please advise me, as well as the Secretary, at the earliest possible moment. If not, you will please execute the contract and proceed with the work under your charge at once.

There has been considerable sickness among my draughtsmen, and I have been delayed in sending the foundation and sectional plans. They will reach you, however, during the present week, which, I trust, will be all that is required.

The approval of this lease removes the last obstacle to the vigorous prosecution of the work, and I can assure you that I feel rejoiced at the closing up of this long-vexed question.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

G. J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

BOSTON, July 6, 1869.

SIR: In compliance with instructions received from the Supervising Architect, of date July 2, I have to instruct you to dispense with the services of the time-keeper and foreman of laborers now employed by you at \$4 50 per diem, and employ in their stead a competent person as foreman of masons, who will be able to attend to the duties of the above-named parties, and also to oversee the operations of the masons, and whose compensation shall not exceed more than fifty cents per diem more than the run of ordinary wages of journeymen masons.

I beg also to call your attention to the clause in the contract with Charles Linehau which provides that he shall at all times, during working hours, have "no less than four one-horse carts, with a competent teamster to each cart," continually at the site, in position for loading, and require you to see that it is rigidly enforced, and an exact account of all time lost by the said Linehau's non-compliance with this aforesaid clause shall be kept, and the amount of said loss deducted from payments to be made in settlement of said Linehau's account, or may be deducted from the ten per cent. drawback retained to insure proper completion of the contract.

You are also instructed to make a careful entry of all work done each day, so that it can be readily exhibited each month in the report or shown by examination of the journal.

Very respectfully,

J. C. RANKIN,
Assistant Supervising Architect, Treasury Department.

G. J. F. BRYANT, Esq.,
Superintendent United States Post Office, &c., Boston, Massachusetts.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, July 13, 1869.

DEAR SIR: I am honored by your letter of the 6th instant, covering a form of contract between myself, as superintending architect of the post office and sub-treasury building of this city, and the Cape Ann Granite Company, of Gloucester, with the authority to execute the same on behalf of the United States, provided, in my judgment, the granite to be obtained from the quarry of the company is suitable for the superstructure as well as for the foundation thereof.

The responsibility thus placed upon me in a matter contingently involving so large an outlay, as well as the very important question of the selection of the quality of material to be used for the street façades of so elaborate and imposing a structure as that designed and adopted for this building, compels me to ask your permission to state, as briefly as possible, the reasons which induce me to decide that if granite is to be the material used in the construction of the façades of the building, the product of the Cape Ann Granite Company's quarry would be suitable for the superstructure.

Respectfully prefacing my remarks with the suggestion that the opportune time for a discussion of the question of what material should be adopted for the superstructure of the edifice has not arrived, inasmuch as the real estate bounding on three of the streets surrounding the square of land, the area is only partially occupied by the post office building, and should the owners of the other portions agree to build all the fronts of the same material

selected by the United States, which is confidently expected, will insure a uniformity of design and quality of material for the façades of the entire four sides of the territory bounded by Devonshire, Congress, Water, and Milk streets, thus securing, with its surroundings, undeniably the most impressive architectural structure in New England.

The reasons for my opinion before stated, that this stone is suitable material for the superstructure, in the event that it should be finally determined to construct the building of granite, are as follows: The granite for so many years past and at present obtained from the quarries of Cape Ann, of which the quarry of the Cape Ann Company is believed to be one of the oldest and best tested in quality and quantity of stone heretofore taken therefrom, is comparatively a light, even-colored, uniform-grained material, generally very free from iron and other objectionable defects, and capable of being worked into delicate shapes and forms, as required for full architectural effect. It is somewhat easier cut and hewn than the well-known sienite of Quincy and Braintree, Massachusetts, though extremely compact, hard, and durable, and all needful sharpness of lines and arrises are readily obtained. The texture or grain of the stone is somewhat coarser than some others of the light-colored granites of New England, at Concord, Hookset, and Fitzwilliam, New Hampshire; Hallowell and Augusta, Maine; and Westerly, Rhode Island; these being, it is believed, the principal granites competing with Cape Ann quarries in the markets of Portland, Boston, New York, and other important localities where granite is called for for public and private use, over nearly all of which granites it has a competing advantage by its location in immediate vicinity of ocean transportation to favorable markets, and the readiness with which it is quarried and dressed. One of the most recent and satisfactory examples of the effect produced by buildings erected with the façades of this material, in this and other cities, which may be cited, is the Boston Post building, erected in 1868 on the corner of Water and Devonshire streets, directly opposite the intended Water street façade of the post office and sub-treasury building. The undersigned does not deny that a difference of opinion exists (even among professional men) as to the comparative merits in color and texture of the granites of this section of the country and those best adapted to produce the happiest effects of light and shade for successful architectural expression; many persons are adhering to the comparatively dark Quincy sienite as the embodiment of all that may be considered desirable for a successful and satisfactory material of construction. With these facts, the undersigned is constrained to say to the honorable Secretary that, in his belief, the Cape Ann Granite Company's quarry can furnish a suitable material for the superstructure, with the almost certain result of reduced cost from granite to be obtained in sections of New England less favorably located for transportation to the city. In this connection it may be stated that a satisfactory comparative examination can be had by the honorable Secretary personally, if he should desire the same, by an examination of the samples of New England granites deposited with the Supervising Architect in his office.

The undersigned would also ask attention to the color of the stone and general effect of the façade of the Treasury extension, recently erected of granite from the quarries of Messrs. Beals & Dixon, in Maine; and a comparison of the same with the Cape Ann Granite Company's sample heretofore deposited with the Supervising Architect, as affording an opportunity for a practical comparison of the character and effect of the two kinds of stone referred to when dressed ready for use in buildings of comparatively equal importance.

The foregoing conclusions have been reached by me after a careful personal examination of the stone, as well in the quarry as in the block. I am aware that my opinion may be animadverted upon by parties interested in granites equally as good as the material used for the foundations "and inquired of for the superstructure" of the largest national building yet erected in New England; but, being called upon for my decision of this question, make this report as embodying my best judgment, in answer to the inquiries of the letter of the honorable Secretary of the 6th instant.

The lease and contract executed by the undersigned and the Cape Ann Granite Company has been this day inclosed to the Supervising Architect for the approval of the honorable Secretary of the Treasury.

With high respect, I have the honor to remain your obedient and humble servant,

GRIDLEY J. F. BRYANT,
Superintendent.

Hon. GEORGE S. BOUTWELL,

Secretary of the Treasury, Washington, D. C.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION

POST OFFICE AND SUB-TREASURY BUILDING,

Boston, July 13, 1869.

SIR: I have to acknowledge receipt of your letter of the 6th instant, covering lease and contract to be executed by me on behalf of the United States, with Jonas H. French, representing the Cape Ann Granite Company of Massachusetts, for the use of its quarry and for procuring stone therefrom for foundations of this building, under proposals invited

from owners of quarries by my circular letter of June 18, 1869, authorized and directed by letter of instructions of the supervising architect, of date June 16, and with directions to me to execute said lease and contract, under certain conditions referred to by your letter of the 6th instant, and particularly stipulated in a note from the honorable Secretary of the Treasury, inclosed in your letter aforesaid and of even date therewith. In reply to your letter I have to say that the honorable Secretary having, by his letter, thought proper to honor me with the responsibility of the settlement of the question of the suitability of the stone of the Cape Ann Granite Company's quarry for the superstructure, (as well as for the foundations of the building,) should the government hereafter elect to use it for that purpose, I feel myself called upon to trespass on the patience of the department with a full report of the reasons which influence me in deciding the Cape Ann Company's stone to be a fit and suitable material for the construction of the superstructure of the Boston post office and sub-treasury building, if it should be decided by the department to build the building of granite, with such evidence and data corroborative thereof as seems to me pertinent to the case, from such professional and practical experts as are presumed to be thoroughly familiar with the material now under consideration. This report I have taken the liberty to make directly to the Secretary, as a respectful reply to the explicit, though exceedingly complimentary stipulations of his note to me, in the belief that you will not consider this course disrespectful to you as my immediate superior officer. The foundations and sectional plans referred to by you have not as yet been required for use, and your proposition to forward them during the (last) week is entirely satisfactory. I reciprocate your sentiments regarding the vigorous prosecution of the work in the closing up of the long-vexed question of the granite foundations.

With great respect, your obedient servant,

GRIDLEY J. F. BRYANT,
Superintendent.

A. B. MULLETT, Esq.,
Supervising Architect, Washington, D. C.

TREASURY DEPARTMENT, July 14, 1869.

SIR: Yours of the 1st instant, inclosing copy of the appointment of John W. Leighton as assistant superintendent of the post office building under your charge, is received. In reply I have to say that your action is approved, and you are authorized to fix Mr. Leighton's compensation at a sum not to exceed \$7 per diem; but he can receive pay only for the time actually employed on the building, and will be required to devote his entire time, during the hours of labor, to the work. He will also, until further orders, perform the duties of master mason. This is in accordance with the arrangement at other places where work of equal magnitude is in progress.

Mr. Leighton will, of course, have nothing to do with the business management, but will simply have charge of the hands, and will devote his entire time to the progress of the work.

You will please, in future, employ no foremen or assistants without reporting the same previously to this office, with your recommendations in regard thereto.

This letter you will please consider as modifying the instructions of the assistant supervising architect, Jas. C. Rankin, esq., in this respect, which are otherwise fully approved.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent United States Post Office, Boston, Massachusetts.

TREASURY DEPARTMENT, July 15, 1869.

SIR: The assistant supervising architect, James C. Rankin, esq., has just submitted a report of his examination of the work under your charge. His report clears up, in a great measure, the difficulties in regard to the cost of the excavation. There are some points, however, to which I desire to call your special attention; one of which is the large number of supernumeraries, which Mr. Rankin states you rectified immediately. I have, therefore, only to express my satisfaction with your action and with Mr. Rankin's instructions.

He, however, reports that the contractor for the removal of the earth has failed to keep a sufficient number of carts there to keep fully employed the men engaged as excavators. This should not have been permitted; the contract is full and explicit on that point.

You will please, in future, enforce each and every contract made by you to the very letter. You will undoubtedly find many persons who consider this course harsh, and who have an idea that government contracts are simply made to be broken. And should any parties apply to you in behalf of any contractors, or to request any modification of a con-

tract, you will please say to them that you are peremptorily forbidden by the Supervising Architect to change the contract in the slightest particular. I have no hesitation in taking the whole of the odium of enforcing a contract upon my shoulders. I am explicit in this matter, as I am aware that it is sometimes difficult to resist the importunities of gentlemen of high reputation and local influence.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

G. J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

OFFICE SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, July 17, 1869.

SIR: I beg to inclose herewith triplicate copies of bond executed by the Cape Ann Granite Company to insure the fulfillment of lease and contract for furnishing stone for the foundation of this building. As I wrote you yesterday, Colonel French was unable to obtain the signature of the district attorney until to-day; hence the delay.

Very respectfully, your obedient servant,

G. J. F. BRYANT,
Superintendent.
Per W.

A. B. MULLETT, Esq.,
Supervising Architect, Washington, D. C.

TREASURY DEPARTMENT, *July 17, 1869.*

SIR: I send you this day the following plans of the post office building under your charge, viz: Nos. 2, 4, 24, and 25, being plans of the foundations, basement story, and two sheets of the sections of the basement story.

These drawings are all that are, in my opinion, necessary to enable you to push the work forward. While I regret the delay that has occurred in preparing them in one sense, I am not sorry in another, as it has given us an opportunity to perfect the plans and to introduce many improvements.

Plan No. 3, which will show the arrangements for the ventilation and the supports for the basement floor, will be forwarded in a few days, together with working drawings for the iron columns for that story.

Please examine the plans carefully and see if any errors in figures or otherwise have escaped my notice. If so, please call my attention to it.

I have heard nothing from you in regard to the lease of the quarry, and presume that Mr. French is by this time fully engaged in delivering stone. I desire that there shall be no further delay of any description whatever, and would like you to commence with the walls and piers of the building proper at the earliest possible moment. I would suggest, in this connection, that as soon as you complete the area walls, at say the corner of Devonshire and Water streets, that you commence the piers at that point. Please use every means in your power to drive this work forward, as I wish it to be as far advanced as possible when the corner stone is laid, which of course must be done before the fine weather is over. I rely upon you to have the work in such shape as to present a handsome and effective appearance at that time, as I desire that everything should be satisfactory.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, July 19, 1869.

SIR: Your letter of the 17th instant, covering four sheets of drawings of foundations and basement story of this building, numbered 2, 4, 24, and 25, respectively, are, this a. m., at hand. These drawings appear to be all that is necessary to enable me to push the work of the masonry of this part of the structure, on the basis that the bonding, including rise or height of courses, is to be fixed in conformity with my judgment. I will, as you desire, cause the figures upon the plans to be examined, and should anything occur to me as requiring revision, it shall be communicated to you without delay. So soon as I can prepare

elevations of the whole of the basement exterior wall piers of all three streets, showing grades of streets, with reference to said piers, and, by consequence, showing number of courses of stone required, to reach base or bottom of dressed stone-work above at sidewalk level, they shall be forwarded to you for examination. If it is your wish to prepare the elevations referred to in your office, please apprise me; meantime no delay shall occur to the immediate and vigorous prosecution of the work. I know you fully appreciate and understand all delays to this date, by reason mainly of the unsettled question of stone contract; but this being settled, no apology, under the full authority given me by all your recent letters, can exist for failure to produce results, such as you now stipulate and expect. Colonel French promises the most prompt and vigorous action in supplying the stone for the footings and piers; and, will you please remember that I shall require your authority and approval of my proposition to dress the four outside faces of the exterior wall "show" piers of basement, with your views as to quality of this hammering, and also quality of the bed and build hammering. By exterior wall "show" piers, I mean the masonry from level of basement story flooring up to underside of Hyatt light of sidewalk. The two derricks purchased by your authority are both in full operation, and I have notified Mr. Cochrane that I shall need the derrick transferred to this building from the Bangor, Maine, custom-house at once. I have also directed the immediate setting up of the derrick transferred to this building from the treasury extension at Washington. We shall then, within a week, I trust, have four derricks in full operation.

I am reminded to say that the area wall of Water street is finished for more than two-thirds its length and height.

The Devonshire street area wall is well under way and being pushed. The foundation stones so far furnished for area walls are of excellent quality. Please feel assured that vigorous action is what I sincerely desire, and require of all employed on this building. I note your requirements in the matter of corner-stone arrangements, and hope, at whatever date it comes off after October 1, that appearances will not be against us as energetic workers. I am glad to know of your intention to forward working plans of iron columns for interior and exterior basement supports. If consistent with your views, please give me authority to advertise for them at once, so they may be set up simultaneous with the granite piers of exterior basement walls.

You will not forget instructions to me as to the method of cutting the work on basement piers, whether by days' work under a master stone-cutter to be appointed, or by the foot; in either case I suppose the work must be done at the quarry we have leased.

Two of the three sheets of foundation and basement story plans heretofore received from you under instructions contained in your letter of June 14, to wit, plan of basement and sections of same, on lines AB, CD, and EF, are herewith returned to you, the plans covered by yours of the 17th of July being, I judge, my guides in prosecuting the work therein shown. The third sheet of plans at hand in your letter of June 14, viz., plan of concrete foundations, (No. 2,) is retained, as supposed to be correctly laid down, excepting that concrete by your permission is omitted from beneath all bearings, excepting street area walls, where it is by your order retained. I shall weary your patience with detail by this note, but it seems required.

With high respect, your obedient servant,

GRIDLEY J. F. BRYANT,
Superintendent.

A. B. MULLETT, Esq.,
Supervising Architect, Washington, D. C.

TREASURY DEPARTMENT, July 20, 1869.

SIR: Inclosed please find lease of the Cape Ann granite quarry, approved by the Secretary of the Treasury. Please deliver one copy to the lessors, keep one yourself, and take such action as may be necessary to enforce its provisions. I shall expect good progress to be made with the work, all obstacles now being removed. The elevations of the basement piers will go forward at once.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Sub-Treasury, Post Office, Boston, Mass.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, July 22, 1869.

SIR: Your favor of the 20th instant, inclosing lease and contract of the Cape Ann Granite Company, approved by the Secretary, is received. In accordance with your instructions, I

have delivered one copy to the Cape Ann Granite Company, and have retained one in my possession.

Very respectfully, your obedient servant,

G. J. F. BRYANT,
Superintendent.

Per W.

A. B. MULLETT, Esq.,
Supervising Architect, Washington, D. C.

TREASURY DEPARTMENT, *July 23, 1869.*

SIR: It has been suggested that, as a day's labor on government work is eight hours, and a day's labor at Cape Ann is eleven hours, a great saving could be effected by having the granite cut down there under special contract. There appears to be considerable force in this suggestion, and I have to request you to examine the subject and advise me what method of performing the work is in your opinion most advantageous for the government. It appears to me that the best plan would be to obtain proposals from as many responsible parties as are willing to bid to cut the work by measurement to a specified standard, the mode of measurement to be specified in a circular letter asking for bids. If you agree with this suggestion, I will thank you to prepare a circular letter inviting proposals for cutting the granite work between the basement and first story floors.

You will, of course, please consider this letter confidential, for obvious reasons.

Very truly, yours,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Mass.

TREASURY DEPARTMENT, *July 23, 1869.*

SIR: Mr. Mullett has placed in my hands a dispatch from you which he interprets as relating to your application for the position of supervising architect for the post office in New York.

I do not design to appoint an architect for the present, but to leave the matter in Mr. Mullett's hands, depending upon him to do, by frequent visits to New York and otherwise, what would be expected of an architect on the ground.

I am, very respectfully,

GEO. S. BOUTWELL,
Secretary.

ARTHUR GILMAN, Esq., *New York.*

OFFICE OF SUPERINTENDENT OF CONSTRUCTION

POST OFFICE AND SUB-TREASURY BUILDING,

Boston, July 26, 1869.

SIR: Your letter of the 19th, signifying your approval of my action in the matter of the report made respecting the fitness of the Cape Ann Granite Company's stone for the superstructure of this building, is duly at hand. I thank you for this frank expression. I certainly feel that I have acted to the best of my ability, in good faith to the United States, and I hope the honorable Secretary will agree in your decision of my action.

I note your instructions by your letters of the 20th and 21st. I pray you do not consider me as having waited for your drawings. I do not consider any delay whatsoever to have been caused to the progress of this building by any action of yours, or by your Washington office. Delays have arisen by reason of unsettled questions with the city of Boston, and still greater delays, by the unsettled question of lease and contract for granite consequent, mainly, in my judgment, upon action by factious and disaffected parties annoying the honorable Secretary and yourself. Happily these troubles seem to be passed, and we, for the first time, really have the work fully under control. The Cape Ann Granite Company will be allowed a reasonable time to quarry and split stones for the work, but no delay on their part, beyond reasonable time, will be sanctioned by me.

The contractor for excavations, it is fair to say, has caused no real delay to the progress of the building, by reason of delays from the two causes hereinbefore named, though this is no apology for his non-compliance with the strict letter of his contract. I note your *emphatic* statement in a previous letter, regarding contractors doing their full duty, and desire to

assure you that it coincides with my own views of the rights of the United States, whether the contractor has a good or bad contract to fulfill.

Yours, with the highest respect,

GRIDLEY J. F. BRYANT,
Superintendent.

A. B. MULLETT, Esq.,
Supervising Architect, Treasury Department, Washington.

TREASURY DEPARTMENT, July 31, 1869.

SIR: Inclosed please find copy of advertisement that you will have inserted in the papers in Boston for one week, when you will open the proposals received, in the usual manner, and forward them to this department, with such recommendation as you may deem fit.

When forwarding them, please give me your opinion as to the advantage of accepting the lowest bid received under this advertisement, or of allowing the contractor a percentage on the actual cost to him of cutting the granite, stating the percentage that in your opinion would be a fair one. Should you, in the meantime, find it necessary to cut the granite in order to prevent any delay, you can make such arrangements, temporarily, as you may deem desirable.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

Sealed proposals will be received at the office of the superintendent, until 12 m. of the 8th August, for cutting all of the granite work necessary in the construction of the basement story of the United States sub-treasury and post office building, Boston, Massachusetts.

The cutting will be done in accordance with the plans to be seen at the office of the superintendent, and will all be No. 3 hammering, similar to the sample there exhibited.

Bids will be by the superficial foot, face measurement, and no allowance will be made for arrises, rebates, reveals, sinkages, beds, or builds, but actual surfaces that show when set, only, will be measured.

The stock will be delivered to the successful bidder, either at the Cape Ann Company's quarry, at Cape Ann, Massachusetts, or at the wharf, in Boston, as he may elect, but in either case the stone, cut ready for use, will be delivered at the site of the building, by the accepted bidder, at such time or times as the superintendent may direct.

Payment will be made on the estimate of the superintendent, at the rate of ninety per cent. on the amount of work done on stock actually delivered at site of the building. The drawback of ten per cent. to be paid when the work is completed.

All bids must be accompanied by a penal bond in the sum of \$5,000, that the bidder will accept and perform the contract if awarded to him. The sufficiency of the security to be certified to by the United States district attorney of the district where the bidder resides.

The department reserves to itself the right to reject any or all of the bids, if it be deemed for the interest of the government to do so, and any bid that does not conform in every respect to this advertisement will not be considered.

Proposals to be indorsed "Proposals for cutting granite," and addressed to superintendent.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,
Boston, July 31, 1869.

SIR: I am in receipt of your letter of the 23d instant, in respect to the most judicious method of securing the dressing of the faces, beds, and builds of the show piers of the basement story of this building.

In reply, I would respectfully say, that I do not hesitate to advise, as undeniably for the best interests of the government, that the work under consideration should be done in such manner as will legally enable us to secure the labor of at least ten hours per day. This, of course, cannot be accomplished as the law exists, if it is desired to hire men and cause the work to be performed by day's work for the United States.

I believe, also, that the cost of the work under discussion will be materially less to the United States if the hammer or dressing be executed by the foot by parties employing their own men on their own territories, as avoiding also the competition and confusion the eight hours' day of the United States with the eleven hour's day of the workmen employed by the Cape Ann Granite Company's quarry, now under lease to the United States, from which quarry said company are now procuring the stones for this building, upon which said dressing is to be executed.

It is true that we might, at some inconvenience, dress by day's work a portion of the basement posts aforesaid *at the site of the structure*; but this course would involve the two-fold inconvenience of retarding other portions of the interior work of the basement story, and of transporting a much larger amount of dead weight, at proportionally increased cost, from the Cape Ann Granite Company's quarry to the site of the building.

I will not enlarge upon other practical difficulties likely to occur should we place our own men by day's work at the quarry now under lease to the United States, to execute the hammering at this time required, though undeniably the government has the full right to take this course, if it should so elect. Unless you shall see some objection, I shall therefore issue a circular letter, by advertisement or otherwise, at noon of the 4th instant, with the offers under said letter made returnable in one week from that day.

With high respect, your obedient servant,

GRIDLEY J. F. BRYANT,
Superintendent.

A. B. MULLETT, Esq., &c.

TREASURY DEPARTMENT, *August 3, 1869.*

SIR: Yours of the 2d instant, in regard to using dark colored granite for the plinth and pedestal courses at the sidewalk level of the exterior faces of the building under your charge, is received. In reply I have to say, that it was my intention not only to use dark-colored granite for those courses but for the external faces of the basement story piers.

I cannot well send you the sketch of the pedestals, as you request, at present, as the plans are not yet fully completed. Can you not, however, make an approximate estimate from the piers of the basement story already in your possession, and the small photographs you have? If so, please advise me. If not, I will send you the plans.

Yours of the 31st ultimo is also received. In reply I have to say, that as you have by this time received form of advertisement in regard to cutting stone, and have full authority to have any granite cut that may be needed at once, I do not see that I can give you any further authority.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

TREASURY DEPARTMENT, *August 14, 1869.*

SIR: Inclosed please find photographic copies of the drawings for iron columns and castings connected therewith for the basement story of the post office building under your charge.

You will please insert the advertisement, for not less than two weeks, in such papers as you have been previously instructed to advertise in in your city.

You will bind the proposals in accordance with the instructions heretofore given and forward them with your recommendations in regard thereto. You will fill the blank for the delivery of the columns with such date as will enable you to have them in place before the close of the present season, giving the bidders all the time that you can give while accomplishing that object.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent, Boston, Massachusetts.

TREASURY DEPARTMENT, *August 21, 1869.*

SIR: Yours of the 9th, transmitting the proposals of the Cape Ann Granite Company for hammering of the basement-story piers of the post office building under your charge, is received. In reply I have to say, that you will please notify the Cape Ann Granite Company that their proposal is considered excessive and is hereby rejected. You are authorized to make arrangements with the Cape Ann Granite Company for the cutting of the work, provided they are willing to do it for a profit of not exceeding fifteen per cent. on the actual cost of cutting the same.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

OFFICE OF SUPERINTENDENT OF CONSTRUCTION
POST OFFICE AND SUB-TREASURY BUILDING,*Boston, August 23, 1869.*

SIR: Your favor of the 21st instant, directing me to notify the Cape Ann Granite Company of the rejection of their bid for hammering the basement-story piers of this building, on the ground of its being considered excessive, and authorizing me to make arrangements with the Cape Ann Granite Company for the cutting of the work, provided they are willing to do it for a profit of not exceeding fifteen per cent. on the actual cost of cutting the same, is at hand.

I have this day forwarded a copy of your letter to the Cape Ann Granite Company, and will advise you at the earliest moment of their decision in the matter.

Very respectfully, your obedient servant,

G. J. F. BRYANT,
Superintendent,
Per G. D. W.

A. B. MULLETT, Esq.,
Supervising Architect, Washington, D. C.

TREASURY DEPARTMENT, *September 2, 1869.*

SIR: Yours of the 31st ultimo, inclosing copy of a letter from Jonas French, president of the Cape Ann Granite Company, is received. In reply, I have to say that it is true that Colonel French exhibited to me a specimen of dark granite which he said could be procured on the government quarry at Cape Ann. I was much pleased with the specimen, and left Colonel French with the understanding on my part that you were to investigate the subject; and that in case you were satisfied that a sufficient supply of stone could be obtained from that portion of the quarry, and that the color would be satisfactory when dressed, that you would be instructed to use it for all work up to and including the plinths of the first order.

I have no doubt, from Colonel French's description, that you will find it satisfactory. I have, therefore, to say that you will please make such investigations as you may deem necessary, and if you are satisfied, order the dark granite from that portion of the quarry. Please advise me of your decision.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

G. J. F. BRYANT, Esq.,
Superintendent, &c., Boston, Massachusetts.

TREASURY DEPARTMENT, *September 6, 1869.*

SIR: I have this day instructed the superintendent of the custom and court-house buildings at Portland, Maine, to send you a schedule of the derricks used by him, and to ship them to you as rapidly as they can be dispensed with. I also inclose an application from Jonas H. French, esq., president of the Cape Ann Granite Company, to borrow or purchase such derricks as we may be able to spare, and have to say that I will thank you to ascertain how many and what derricks will be required by you in the construction of the post office building, and to authorize you to loan all surplus ones to Colonel French until such time as they may be needed by the department, taking his receipt therefor. All damage to be made good by Colonel French. I desire that you should use as many derricks as is necessary to command every inch of the building, and would thank you to prepare a rough diagram showing the location of the derricks proposed by you. I desire that they should be so located as to require no moving in a lateral direction.

I am, very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office Building, Boston, Massachusetts.

TREASURY DEPARTMENT, *September 9, 1869.*

SIR: I send herewith plans, Nos. 2, 24, and 25, of the building under your charge, the corresponding numbers previously sent being now imperfect, the unexpected uniformity and consistency of the soil having enabled us to omit certain portions of the work originally contemplated. These plans agree with the decisions made at our last interview, and are sent you to keep our records correct. Please substitute these plans for those in your hands,

and dispose of the condemned ones as you may think fit. I also inclose working drawings Nos. 30 and 31 of the lintel and sill courses, which should be of dark granite, if it can be obtained from the Cape Ann quarries now leased by this department. Should the quarries not prove satisfactory, you will please consider the plan of using dark granite abandoned, and use the same quality of granite as it is proposed to use on the remainder of the work; unless you should be able to make satisfactory arrangements with Colonel French for a supply of a satisfactory quality of dark granite from other quarries at a fair price, in which case you will please consider yourself fully authorized to conclude arrangements and will act accordingly, reporting your action to the department.

You will please have duplicates of drawings Nos. 30 and 31 prepared, with a schedule of stone if necessary, for the use of the contractors.

Please consider yourself instructed to prepare such copies of any drawings sent you as you may deem necessary to expedite or perform the duties devolving on you, or for the use of the contractors, and you will certify to vouchers for the cost of such copies.

Please purchase any material necessary for the progress of the work on the best terms you can obtain, and endeavor to have the basement piers completed, and as much work as possible performed by the 15th of October, and confer with the disbursing agent and such other persons as you may think fit, and make arrangements for laying the corner stone at or on that date, so as to suit the convenience of the Secretary of the Treasury and Postmaster General. Your great experience in such matters renders it unnecessary for me to make any further suggestions.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office and Sub-Treasury, Boston, Mass.

TREASURY DEPARTMENT, *September 10, 1869.*

SIR: I inclose herewith a contract, in triplicate, for execution by you with the Cape Ann Granite Company, for granite for the superstructure of the building under your charge, drawn so as to enable the department to order the stone in such quantities and at such times as future appropriations for the construction of the building may admit. Immediately upon the execution of the contract you will please return all the copies, in order that the written approval of the Secretary may be indorsed upon each.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

G. J. F. BRYANT, Esq.,
Superintendent Post Office and Sub-Treasury, Boston, Mass.

TREASURY DEPARTMENT, *September 11, 1869.*

SIR: In reply to yours of the 10th instant, you are hereby authorized to purchase in market such bricks as you may require this autumn for use in the construction of the building under your charge.

Very respectfully,

J. C. RANKIN,
Acting Supervising Architect.

G. J. F. BRYANT, Esq.,
Superintendent Post Office and Sub-Treasury, Boston, Mass.

TREASURY DEPARTMENT, *October 23, 1869.*

SIR: By a clerical error, the clause providing for the cutting of the material was omitted from the contract of the Cape Ann Granite Company for stone for the superstructure of the building under your charge, and my attention having been called to this fact by a letter from Colonel French, I have been instructed to prepare a new contract embodying the provisions of the one executed, with the additional clause to which I refer, which are herewith inclosed.

You will please have these contracts executed without delay and returned to the department for approval, together with the contracts for which these are to be substituted.

Very respectfully,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

TREASURY DEPARTMENT, *October 26, 1869.*

SIR: I am informed by Colonel French that he is now getting out of the main pit of his quarry a very superior grade of stone, and that he thinks desirable to save it for use in the upper stories of the building, and that if permission can be granted to use for the basement stories from another pit of a somewhat darker color, business could be much facilitated and that he would be enabled to push work more rapidly in the spring. I have no objection to this arrangement, provided he will furnish the entire basement story to the level of the first story out of the pit to which he refers. You are, therefore, authorized to make the necessary examination, and grant him the permission desired, if, in your opinion, it is desirable to do so. In this connection, I may remark that I have no objection to his using Quincy granite for the entire basement story, provided he is willing to furnish it at the same rates as under his contract for the other stories.

Very respectfully,

A. B. MULLETT,
*Supervising Architect.*GRIDLEY J. F. BRYANT, Esq.,
*Superintendent Post Office, Boston, Mass.*TREASURY DEPARTMENT, *November 8, 1869.*

DEAR SIR: Your letters of the 5th and 6th instants are received. In reply, I have to say that I am gratified to learn that you have succeeded in making arrangements with the Merchants' Insurance Company of your city in regard to the connection between our property. As soon as a regular agreement is drawn up I will submit it to the Secretary for formal approval. I see no objection myself to the arrangement you propose. As regards the dark granite, I have this day written General Butler on the subject, and am in hopes that we shall succeed in making an arrangement. I expect to be in Boston the coming week, and will bring General Jones with me. He was here Saturday. We are getting the New York plans in splendid condition, and I believe I shall make them a great success.

Very truly yours,

A. B. MULLETT,
*Supervising Architect.*General WM. L. BURT,
*P. M. and Disbursing Agent, Boston, Mass.*TREASURY DEPARTMENT, *November 10, 1869.*

DEAR SIR: Permit me to call your attention to the necessity of making the appointment of time-keeper on the granite cutting for the Boston post office.

Will you be so kind as to send me, by return of mail, Mr. Hale's full name, and, if possible, Mr. Bryant's nomination of the same.

Very respectfully,

A. B. MULLETT,
*Supervising Architect.*Hon. BENJ. F. BUTLER,
*Gloucester, Massachusetts.*TREASURY DEPARTMENT, *November 10, 1869.*

SIR: Your dispatch advising me that no stone has yet been quarried for the sill and lintel courses of the basement story was duly received. I will forward in a day or two drawings showing modifications of some of the stones, which will, I think, improve the appearance of the building. Please advise me how Colonel French is getting along with the work. The accounts I receive are not encouraging. Do not hesitate to take any steps necessary to push this work along.

Very respectfully,

A. B. MULLETT,
*Supervising Architect.*GRIDLEY J. F. BRYANT, Esq.,
*Superintendent Post Office, Boston, Massachusetts.*TREASURY DEPARTMENT, *November 11, 1869.*

DEAR SIR: Your dispatch of the 10th instant is received. In reply I have to say that I will give the "Transcript" the precedence in Boston for the publication of the description of

the post office building under your charge. I had, however, previously furnished the Harper Brothers a photograph of the building, which they will illustrate, but their description will necessarily be very brief. I will give the "Transcript," as full a description as possible for publication with the view of the building, which, I trust, will be satisfactory to them.

Very truly yours,

A. B. MULLETT,
Supervising Architect.

GRIDLEY J. F. BRYANT, Esq.,
Superintendent Post Office, Boston, Massachusetts.

[Telegram.]

TREASURY DEPARTMENT, November 12, 1869.

Hon. B. F. BUTLER, *Gloucester, Massachusetts :*

Please send full name of person recommended as time-keeper at quarry.

A. B. MULLETT,
Supervising Architect.

WASHINGTON, April 15, 1870.

GEORGE D. WHITTLE sworn and examined.

By Mr. TWICHELL :

Question. What is your occupation?—Answer. I am clerk of the superintendent of construction of the post office and sub-treasury building in Boston.

Q. Are you the time-keeper?—A. I am detailed to go down and look after the time of the men employed upon that work.

Q. And do you look after it?—A. Yes, sir.

Q. Do you pay the men who do the hammering upon the granite that is used in that work?—A. So far as handing them the money is concerned, I do not; the superintendent has no right to handle any of the money, and I, as clerk of the superintendent, have no right to.

Q. Explain precisely what it is that you do in connection with the matter.—A. I keep the time; I make up the pay-rolls; I receive the signatures of the men to the pay-rolls, and I am present when they are paid.

Q. Who pays them?—A. General Burt.

Q. When the money is paid, do you know what it is paid for?—A. I do.

Q. What is it paid for?—A. It is paid to the laborers employed in dressing and boxing the stone.

Q. What is this dressing and boxing; where do the men take the stone, and where do they leave it?—A. The stone is supplied to the hammerers under the sheds in which they work. They dress it under those sheds. The boxing is putting pieces of wood around each stone, hooped with slats of hoop-iron to protect the stone on being shipped.

Q. Who lays out that work for the men?—A. There is a foreman who marks out the patterns for the carpenter.

Q. Do you pay the foreman?—A. Yes, sir.

Q. And the man who lays out the work?—A. Yes, sir.

Q. Supposing he makes a mistake?—A. Then we don't pay him. If a mistake is made the stone is rejected, and nobody gets any pay for it; that is at the risk of the contractor.

Q. Who fixes the pay of these men?—A. I think Colonel French fixed the pay of the men; then Mr. Bryant examined to see if the price was correct.

Q. How does he know the character of the workmen, with regard to skill, diligence, &c?—A. By the result of their work.

Q. How often is that compared?—A. It is examined as fast as received. A regular account is kept of every stone that is received; of the name of the man who worked on it, and the length of time he worked, and by the result we can know what kind of a workman he is.

Q. But supposing the cost of a stone in any case should exceed what Mr. Bryant thought it ought to be?—A. Well, I do not suppose the stone would be rejected; but if the workman was found to be incompetent or lazy, he would be discharged. There have been several such instances.

Q. By whom were they discharged?—A. By the contractor, upon the contractor's foreman stating that they were not competent men.

Q. What is this fifteen per cent. paid on? Is it paid on any expense incurred for opening the quarry, removing the rubbish, procuring or putting up machinery or fixtures, getting out the stone, or removing the stone to the sheds, or from the sheds?—A. No, sir.

Q. Has the government, to your knowledge, ever paid anything for any of these purposes in any shape?—A. No, sir.

Q. How many men are on your pay-roll?—A. The greatest number is one hundred and thirty-eight, I believe.

Q. How many men has Mr. French had to do the opening, quarrying, moving, &c.?—A. I cannot state positively; I think between fifty and sixty.

Q. There is no fifteen per cent. paid upon them?—A. No, sir; there is no fifteen per cent. paid on anything except what is on my pay-rolls.

GEO. D. WHITTLE.

WASHINGTON, *April 14, 1870.*

WILLIAM L. BURT sworn and examined.

By the CHAIRMAN:

Question. Have you been familiar with the arrangements between the government and the quarrymen of Boston from the commencement with regard to the Boston post office?—Answer. Yes, sir. Before they commenced work at all it was arranged that the work at the quarry should be paid through me; and my printed requirements were that I should know that each man who was paid performed his work; I prepared myself to do so.

Q. What was the haste for making the contract for stone in Boston at the time that contract was made?—A. The reason was, the city was grading the street; this change of grade had been done at our request. They had brought up the grade, and it was absolutely necessary that we should get our walls in on the new grade on the streets adjacent. New buildings then occupied were five feet above the grade; the city was paying damages to parties upon our account; it was absolutely necessary to get stone as soon as possible. The city was pressing us; and the people were pressing us.

Q. Did you examine personally the different quarries near the city of Boston?—A. I knew the quarries at Quincy; I examined the quarries at Cape Ann.

Q. What do you mean by the quarries at Cape Ann? Does that include the Rockport quarries and French's?—A. Yes, sir.

Q. Did you examine the Rockport quarries and French's?—A. I did; the whole of it.

Q. Did you examine the twenty acres "Oregon, and Hale & Knowlton," which the Rockport company proposed to lease to the government?—A. I went down there, and their foreman pointed it out to me.

Q. Were there any appliances or conveniences there for quarrying?—A. No, sir; there was not a building on the place nor connected with it, apparently; no derricks nor machinery of any kind; no pumps nor appliances for working the granite; it was merely a piece of rough quarry land.

Q. Did they tell you what proportion of the wharf they would let you have?—A. They said they could not let us have the wharf exclusively; the government could have their right in turn at the wharves which they were using. They wanted to keep their own quarry in motion on their own account.

Q. What would be the effect of such an arrangement?—A. The government would have been constantly liable to interruptions and delays; we should not have had control of the wharves, and if we had been interrupted would have had no remedy; we would have had our rights with them. They did not propose to give us exclusively their wharves.

Q. Did you receive bids for granite at two different times—under two different circulars?—A. We issued two circulars to quarrymen for lease of quarries and furnishing stone.

Q. And received bids at two different times?—A. Yes, sir.

Q. Why was not the first bid of the Rockport company accepted and carried into effect?—A. The bid was the lowest under the first circular. They were notified, and the contract made out and sent them, but they declined to sign it. They claimed that the contract went beyond the proposition they originally put in, both with regard to strictness of requirements and to what the government claimed as to control of the quarry; they declined to enter into the contract because it seemed to cut them off from the use of their own quarry. On their refusal to execute the contract, the same contract was executed by the Cape Ann Granite Company, only changed as to the name of the company, and made to correspond to the figures of the Cape Ann Company's bid. The contract was then sent to Washington for the approval of the Secretary of the Treasury. It was not approved; and soon after notice was received that all the parties were to have an opportunity to bid again. A form of contract was sent on and placed on file at the office of the superintendent, and the advertisement published referred to it, that the bidder could examine it, and see what he would be required to sign; and every party who had been before was notified, so that they might have the opportunity to bid again; everything that had been done before was cancelled, and we started anew; when the parties came to me I referred them to it; it covered the whole ground. I saw Mr. Stimson either there or on the street, and referred him to it; in conversation with him I advised him to bid.

Q. Did you receive a bid from the Rockport Company?—A. On the second advertisement for bids we received a bid from them, which we did not open.

Q. Why not?—A. The time fixed for opening the bids was twelve o'clock noon, at the office of the superintendent. I remained there, with Mr. Bryant, the superintendent, until

half past twelve, considering it still twelve o'clock. We then took all the papers and went to my private office, where they were opened. After we were all through, and a paper had been prepared communicating the facts, Mr. Whittle came down, saying that an additional paper had been brought in at the office of construction, at 55 Devonshire street. We had got through and nearly two hours had elapsed before the paper came in. We had prepared our schedule and made up the form of return. It proved to be a bid. We then did not know that it was such, for I declined to open it. This paper was forwarded, unopened, to the Secretary of the Treasury, with the returns, and the explanation to the Secretary of the Treasury of the facts of the case.

Q. I want you to state exactly, under your arrangement and under the government arrangement with the present contractor, what "bankage" means, what "wharfage" means, and what the price of 39 $\frac{3}{4}$ cents covers, distinct and separate.—A. "Bankage" refers to the raw material, the stone in the bank or quarry ready for quarrying, the quarry being opened at the expense of the owner of the quarry. "Wharfage" is the expense of passing the stone over the wharf, or rather to wharves, once at Cape Ann and once at Boston; the contractors pay for both. The 39 $\frac{3}{4}$ cents covers the quarrying of the stone and the transportation and delivering of it in Boston, on the site, ready to be swung on to the work. The stones are placed within reach of the cranes and where it is wanted. The 39 $\frac{3}{4}$ cents is paid upon the measurement for the wall as laid. We pay them precisely for the amount of stone we use, without any waste whatever; the surveyor measures the finished wall.

Q. To what does that fifteen per cent. apply?—A. It does not apply to anything in the rough foundation, and the increase of a cent a foot does not apply to anything in the rough foundation; it applies only to dimension stone where large sizes are ordered. If the contractor chooses to furnish large-sized stones without order from the government he gets no extra pay on account of stone not specifically ordered. There are many stones in the area wall which measure over twenty cubic feet; I should say that half of them exceed that measurement; but not a cent extra has been paid for them. The contractor cannot claim the extra cent a foot upon a single stone except upon special order of the government that such stone shall be cut of extra size; and this does not refer to any of the stone used in the rough foundation; some of them measure over forty feet.

Q. Upon what is the additional fifteen per cent. paid?—A. It is paid upon the hammering of the stone, insurance, and the boxing. It is not upon the stone itself, nor the bankage, nor the wharfage, nor the delivering in Boston; that is all covered by 39 $\frac{3}{4}$ and 55 cents.

Q. Does it apply to removing the stone to and from the sheds?—A. No, sir, it applies just to the cutting of the stone, under the supervision of his own foreman having charge of the work. A pattern is made for every stone and turned over to Colonel French, who has the stone cut precisely according to that pattern and the orders.

Q. Suppose his men should work it out wrong and by some mistake the stone comes up with an incorrect measurement?—A. It is not measured for payment until it goes into the building; it does not go into the building and is not paid for. Colonel French is, as it were, the middle man between the government and the men who do the work; takes the orders; they execute them and he is responsible.

Q. Then if there is any mistake neither the stone nor the labor upon it is paid for?—A. Not a stone is paid for except such as are put into the building and there measured by the surveyor of Boston. In this measuring the other parties are not present. Colonel French does not know, except by the surveyor's measurement, the quantity of stone that has been laid in that building.

Q. You say this 15 per cent. is paid upon the hammering of this stone; explain a little more fully what you mean.—A. When the granite is quarried and ready for work these men who do the work are paid a certain amount.

Q. Do you know what the cutting of those stones has cost the government so far?—A. By reference to the papers I can tell precisely what every stone has cost from the first to the last. The cut piers of the foundation, we know what they cost—90 cents a foot—round numbers.

Q. How are you able to arrive at the cost of this?—A. Every stone is lettered and numbered and the name of the man who did the work upon it set down, so we know the cost of each separate stone and the aggregate cost of the whole pier. We know what each man has done during each month and each day of the month; and when he commences work upon another stone a new account is opened with him in connection with it.

Q. Does it come to you on an invoice?—A. Every stone is invoiced just as if it came from Liverpool. If a man is tardy, or lazy, or not able to do the amount of work the other men do, his stone will show it, because it will cost twice as much per foot as those of the other men.

Q. Have any stones been got out of the superstructure?—A. We have not finished anything there yet; we are cutting stone for the plinths and bases of the columns; that will cost more; but we have not yet got far enough along to know how much it will cost.

Q. Have you got to any of the 55th stone yet?—A. We are just beginning to put that in; there is none of it in yet.

Q. Something has been said by the witness about another quarry being opened by the Cape Ann folks; have they run short of granite?—A. No, sir; we wanted different shades

of granite—darker and lighter. After consultation, we concluded to have a dark piece entirely around the building on a level with the sidewalk; it is liable to be soiled by persons leaning against it and in various other ways; so this plinth, extending entirely around the building, is to be made of the darkest granite we could find. So they went and opened a quarry of darker granite.

Q. Does this involve any additional expense to the government?—A. Not a cent; it should cost something additional, for it is additional work to them; but they furnish it to us at the same price.

Q. Is there any prospect of the granite giving out?—A. No, sir; there is stone there without any limit.

Q. Has the government been to any expense for uncovering the bank, opening the quarry, removing the rubble, putting up machinery or fixtures, cutting out stones, or removing the stones to the sheds or from the sheds?—A. Never a dollar. The contractor bears all that expense at the prices named. We have 150 or 160 men on our pay-roll. There are half as many more on French's private pay-roll.

Q. Do you know how many men Colonel French has to do the work of opening, quarrying, &c., outside of this in government employ?—A. He has 60 or 70 men in addition to our workmen.

Q. Does this 15 per cent. apply to them?—A. No, sir; we pay no 15 per cent. on them nor any per diem to them.

Q. Is there anything more that you would like to refer to which I have not asked you about?—A. There was one thing that struck me on looking over the testimony to which I shall refer. The matter of this superstructure was properly included in the proposition to the quarrymen; that is, if we had taken the quarry, we were to have stone for the whole building. It was to be a quarry that would furnish stone for it, for both the foundation and the superstructure of the building, such as we wanted in Boston. Now, then, the complaint is that we went forward and got the superstructure. Well, there was a separate bid by this party in both cases. The quarry was to be such that we could get out superstructure stone from the same quarry. That was the intention of the government, and that was what the circular called for. There was no secret nor concealment connected with the matter from beginning to end.

Q. Was there any favoritism shown to anybody with regard to quarries?—A. None whatever, in any way. When the lease was made it was turned over to the Rockport Company, and they were notified, with the expectation that they would have stone there within a week. As to their finding out what the price was, nothing was said by any of us, even to each other. I afterward learned from Colonel French that Mr. Stimson, on the case, spoke of their offer, and mentioned the price.

Q. When was this?—A. After the first and before the second advertising.

Q. And you say Mr. Stimson reported his bid personally?—A. Yes, sir; and so far from its being a secret, I understand that Colonel French and he talked the matter all over.

Q. The two bidders?—A. Yes, sir; and nobody made any complaint about this that I am aware of—no suggestion was made to me that information had been given to one and not to another.

Q. Do you pay the men on these pay-rolls, personally?—A. No, sir, not personally. Mr. Whittle, who keeps the time at the quarry, informs me of the amount required each month. The money is sent to the quarry and paid to the men in Mr. Whittle's presence, who takes their signatures to the pay-rolls for me.

METROPOLITAN POLICE.

APRIL 15, 1870.—Ordered to be printed.

Mr. WILLIAMS, from the Committee for the District of Columbia, made the following

REPORT.

The Committee for the District of Columbia, to whom were referred House resolutions instructing them to make inquiry as to the payment of the Metropolitan Police of the city of Washington, respectfully report :

That they have made inquiry touching the subject embraced in said resolutions, and find that owing to the delay in making out the new tax-books during the last half year, said police were not regularly paid, but as soon as collections were made, said police force were promptly paid, and at this time there are no balances due to said force, and that hereafter no delay in the payment of their salaries will occur ; and said committee ask to be discharged from further consideration of the subject.

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J. H. SYPHER.

APRIL 18, 1870.—Ordered to be printed.

Mr. STEVENSON, from the Committee of Elections, made the following

R E P O R T.

The Committee of Elections, to whom were referred the Louisiana contested election cases under sundry resolutions of the House, submit the following report:

Under the instruction of the House, the Committee of Elections, at the last session of this Congress, considered the question of ineligibility raised against Mr. St. Martin, and reported against him, April 6, 1869, as follows:

SYPHER *vs.* ST. MARTIN.—April 6, 1869.—Laid on the table and ordered to be printed.

Mr. PAINE, from the Committee of Elections, made the following report:

The Committee of Elections, to whom was referred the case of J. H. Sypher vs. Louis St. Martin from the first congressional district of the State of Louisiana, in obedience to the following resolution of the House of Representatives, adopted March 22, 1869—

“Resolved, That in all contested election cases referred to the Committee of Elections in which it shall be alleged by a party to the case, or a member of the House, that either claimant is unable to take the oath prescribed in the act approved July 2, 1862, entitled “An act to prescribe an oath of office, and for other purposes,” it shall be the duty of the committee to ascertain whether such disability exists; and if such disability shall be found to exist, the committee shall so report to the House, and shall not further consider the claim of the person so disqualified without the further order of the House; and no compensation will be allowed by the House to any claimant who shall have been ineligible to the office of representative to Congress at the time of the election, and whose disability shall not have been removed by act of Congress”—

submit the following report:

It was alleged, in writing, before the committee, by said Sypher, that said St. Martin could not take the oath prescribed in the act entitled “An act to prescribe an oath of office, and for other purposes,” approved July 2, 1862. The committee thereupon, in obedience to said resolution, inquired into said charge, and have found, and do report to the House that Louis St. Martin, claiming the right to represent the first congressional district of the State of Louisiana in this House, is unable to take the oath of office prescribed in the said act of July 2, 1862.

The House having made no “further order” relative to the claim of Mr. St. Martin, this committee have not considered it, except in so far as it negatives the adverse claim of Mr. Sypher; but, as opposing this claim, Mr. St. Martin has been permitted to appear in person and by counsel, to call and examine witnesses and argue the case.

Without repeating what was said in the report preliminary to our report in the late case of Hunt *vs.* Sheldon, we refer to the general statement of facts and principles therein contained, and reaffirm them. Our faith in the principles applied by the House in that case grows stronger as we continue this investigation, and our opinion of the importance and value of those principles is heightened by events daily occurring.

The best protection we can give to the ballot in the hands of the freedmen is to so administer judgment as that violence and wrong shall not prosper. Thus by taking away the motive we shall most effectually prevent bloodshed, and secure peaceable and fair elections.

Therefore, we ask that the returns from such of the parishes and precincts of this district as have been shown to have been overrun, and carried by violence and intimidation, shall not be counted, and that the result shall be ascertained from the peaceable parishes and precincts.

The district is composed of "all that portion of the parish of Orleans on the right bank of the Mississippi River, and so much of said parish on the left bank of said river as is below and east of Canal street in the city of New Orleans, comprising the fourth, fifth, sixth, seventh, eighth, and ninth representative districts of the parish of Orleans, and the parishes of St. Bernard, Plaquemines, St. Tammany, Washington, St. Helena, and Livingston."

This district was clearly and strongly republican. The parishes gave in 1867 a large republican majority. In the spring of 1868 the republican majority was over 2,000. There is no reason to suppose that in a fair and peaceable election, it would have been less in the presidential election; but, on the contrary, the acknowledged strength and popularity of the republican ticket would have increased the party vote there, as it did wherever elections were lawful and peaceable.

The republican vote in the rejected parishes, including all of Orleans, in 1867 was over 14,000. In the spring of 1868 it was 14,227.

The part of the district where violence and intimidation prevailed, at the election in question, was also republican.

In this part, including that part of Orleans comprised in this district, and St. Bernard, St. Helena, and Washington, the republican party had a majority in 1868 of over one thousand, receiving 8,565 votes. *Over three hundred leading and active republicans, white and colored, were killed, wounded, or otherwise cruelly maltreated by Ku-Klux, and other instruments of violence and intimidation, within sixty days preceding the election.*

Terror and dread took possession of the unprotected people, thousands of colored republicans and some whites voted the democratic ticket from compulsion and fear, and the great mass remained away from the polls, and the 8,565 republican votes were reduced to 84, eighty (80) of which were received in Orleans, two (2) in St. Bernard, two (2) in St. Helena, (out of Amite,) and in Washington none.

ORLEANS.

The House having passed judgment upon the parish of Orleans, we shall not dwell upon it here, except to say that the part of that parish included in this district was the home of the bloody "*Innocents Club*," which was about two thousand strong, and was a terror not only to the city, but the surrounding country, and the greater proportion of violence was committed by it in this district.

ST. BERNARD.

The parish of St. Bernard adjoins Orleans, and was the scene of a most sanguinary riot and massacre, in which the "*Innocents*" played a fearful part, and there was no lawful election held there.

The democratic sheriff, without authority of law, went into the forms of an election, and only two (2) republican votes were cast, whereas the parish was well known to be republican, and the democratic sheriff him-

self testified that if there had been a *peaceable election* the republicans would have had a majority.

WASHINGTON AND ST. HELENA.

These are country parishes, bordering upon the State of Mississippi, and were in the hands of the "*Knights of the White Camelia*" and "*Ku-Klux Klan*."

Republicans were visited, threatened, attacked, whipped, maimed, and murdered until the entire organization of the party was broken up in every precinct, except one, where a company of troops was stationed, and even their protection was imperfect, because the officers appeared to sympathize with the democracy, and the men more frequently maltreated than defended colored men. At this precinct, however, a peaceable election was held, and the majority of the republican electors voted.

THE RESULT.

The official returns for the peaceable parishes is as follows :

Official return of votes for member of Congress, first congressional district of Louisiana.

	Sypher.	St. Martin.
Parish of St. Tammany, (page 578, Part II).....	471	703
Parish of Livingston, (page 576, Part II).....	149	670
Parish of Plaquemines, (page 576, Part II).....	1,330	272
Algiers, (page 577, Part II).....	780	137
Total.....	<u>2,730</u>	<u>1,782</u>

Majority for J. H. Sypher, 948.

The result in the peaceable poll known as "Amite," St. Helena Parish, was as follows :

Poll I, precinct 5—

St. Martin.....	236
Sypher.....	134

If we include the Amite poll, which the committee deem right under the rule adopted, the result is not changed.

St. Martin having 2,018 votes and Sypher 2,864 votes, leaving Sypher's majority 846.

ALGIERS.

There was a poll in Algiers, (No. 1, precinct 1,) which was omitted by the board of canvassers from the official returns because it was not returned in time, according to law, and because of intimidation and fraud, by which colored voters were prevented from voting; and it appears that at least forty illegal votes, of persons not registered, were received for the democratic ticket, while many republican voters could not be induced to approach the polls, so great was their fear. Yet, as the proof is not so strong and clear as to the immediate cause of the fear in that locality, and as it seems that the voters were mistaken in their apprehensions, it is thought safer to include this poll, deducting the forty illegal votes, which would result as follows :

St. Martin.....	609
Sypher.....	119

RECAPITULATION.

The result in the peaceable parishes and precincts is as follows :

	Sypher.	St. Martin
Parish of St. Tammany, (page 578, Part II).....	471	703
Parish of Livingston, (page 578, Part II).....	149	670
Parish of Plaquemines, (page 576, Part II).....	1, 330	272
Algiers, (page 577, Part II).....	780	137
Algiers, (poll 1, precinct 1).....	119	609
St. Helena, (poll 1, precinct 5, Amite).....	134	236
	2, 983	2, 627
	2, 627	
Majority for Sypher.....	356	

Leaving a clear majority for Sypher of 356, after allowing all that can be reasonably claimed against him.

We therefore recommend the adoption of the following resolution:

Resolved, That J. H. Sypher is entitled to a seat as a representative in the forty-first Congress from the first district of Louisiana.

○

NEWSHAM vs. RYAN.

APRIL 25, 1870.—Laid on the table and ordered to be printed.

Mr. BURDETT, from the Committee of Elections, made the following

REPORT.

The claimants to seats in the House, for the forty-first Congress, from the fourth district of Louisiana, are J. P. Newsham and Michael Ryan. The certificate of election was, upon the official count, awarded to Michael Ryan, it being therein declared that, from the returns "examined, compared, and attested by the proper officers," at the election held on the 3d day of November, A. D. 1868, for member of Congress to represent the fourth congressional district of the State of Louisiana, Michael Ryan received 10,385 votes, and J. P. Newsham 5,606 votes.

The contestant, notwithstanding the count against him, denies the right of Ryan to the seat, alleging that he is disqualified and ineligible to a seat in Congress by reason of inability to take the oath prescribed in the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, as well as by the terms of the fourteenth amendment to the Constitution of the United States.

He further contests his right to a seat upon the ground of alleged fraud, violence, and intimidation, claimed to have been perpetrated by the partisans, and in the interest of, Mr. Ryan, and claims for himself, upon the proof, a majority of the legal votes cast at said election, and his right to be seated as the duly elected member.

The specific grounds upon which the respective parties claim their right to be seated, required by House resolution of April 7, 1869, to be filed with the Clerk of the House, are as follows :

STATEMENT OF J. P. NEWSHAM.

The following are the grounds upon which I claim my seat in the forty-first Congress :

In the case of JOSEPH P. NEWSHAM, contestant, *vs.* MICHAEL RYAN, contestee.

You are hereby notified that I will contest your right to a seat in the forty-first Congress upon the grounds and for the reasons hereinafter stated and charged.

I. I charge that you have not been a citizen of the United States for the period of seven years immediately prior to the election on the 3d day of November, last past ; that you are ineligible under the fourteenth amendment to the United States Constitution ; that you held an office of trust and profit under the State government of Louisiana, in and prior to the year 1861 ; that you afterward aided and abetted the rebellion ; that you were at one time second lieutenant of an armed band of soldiers, affiliating with the rebellion in the seceded State of Louisiana, of the so-called Confederate States of America.

II. I charge that in the parish of Caddo a reign of terror existed, incited by your party supporters, and that thereby I lost three thousand votes, more or less, which otherwise on a fair election would have been polled for myself ; that the only man who in said Caddo Parish voted the republican ticket was murdered for doing so on the night of the day he polled his vote.

III. I charge that in the parish of De Soto a reign of terror existed, incited by your

friends; and, because of said reign of terror, as many as fifteen hundred votes were lost to the republican ticket and myself.

IV. I charge that in the parish of Wynn no fair expression of the people's will, as comprehended by the word election, was had on the 3d day of November, A. D. 1868.

V. I charge that in the parish of Sabine a reign of terror, intimidation, and lawless violence existed to such an extent that republican voters were compelled to vote for you under duress.

VI. I charge that in the parish of Bossier, at or immediately prior to the election held on the 3d day of November, A. D. 1868, a reign of terror, intimidation, and violence existed, caused and perpetrated by armed democrats, who, without cause or reasonable provocation, shot down and killed republican voters.

VII. I charge that each and all of the above parishes ought, and properly and legally will, be thrown out of said election returns, and that as to these parishes the election is fraudulent, null, and void.

VIII. I charge that you received your votes through fraud, and that they were not, and are not, legal votes.

IX. I charge that I am elected to a seat to represent the fourth district of Louisiana, in the forty-first United States Congress, by a majority of the legal votes cast at said election; that you are not entitled in law, or by right, to a seat, for the above cited and enumerated reasons and grounds; that you have no claims on my seat in the forty-first United States Congress.

J. P. NEWSHAM,

Member elect Forty-first United States Congress,

Fourth Representative District, State of Louisiana.

WASHINGTON, D. C., April 8, 1869.

STATEMENT OF MICHAEL RYAN.

In the matter of J. P. Newsham, contesting the election of Michael Ryan, member returned for the forty-first Congress of the United States from the fourth congressional district of Louisiana.

The defendant and returned member in the above-entitled contest, in pursuance of House resolution No. —, respectfully submits the following statement of the grounds on which he claims his seat on the floor of the House of Representatives:

First. He holds the governor's certificate of election, which he insists is in due form.

Secondly. The official returns of the election held in the fourth congressional district, on the 3d of November, 1868, for member of Congress, exhibit a large majority in his favor of the legal votes cast at said election.

Thirdly. The election was valid. Both parties to the contest claim its validity. The contestant alleges intimidation and fraud in certain parishes, asks that the votes in said parishes be excluded from computation, and that on a computation of the votes of the remaining parishes he be adjudged entitled to his seat. This averment defendant denies, and, claiming that the votes of all the parishes be included, he moves the committee to report, and the House to adjudge, him lawfully elected and entitled to the seat.

Fourthly. Defendant specially denies that he is disqualified, or ineligible, or unable to take the oath prescribed for members of Congress, and prays the committee to inquire first into the specification.

All of which is most respectfully submitted.

MICHAEL RYAN,

Member elect from Fourth Congressional District, Louisiana.

The question of the ineligibility of Mr. Ryan put in issue by the contestant is first to be determined. It is admitted that contestee comes within the description of persons set out in the third section of the fourteenth article of amendments to the Constitution, by having previously taken an oath as a member of the legislature of the State of Louisiana to support the Constitution of the United States. That he did give aid and comfort to the enemies of the United States is confidently asserted by contestant, and much evidence has been produced pro and con to meet that issue.

The substantive proofs adduced to sustain the charge of ineligibility are, that Mr. Ryan, in the early part of the year 1862 made a speech to

a company of confederate soldiers, encouraging them in their fight for secession. (See testimony of Harry Lott, 1st volume, page 421; of Calhoun, page 424, question 8,572; of Barlow, page 587, question 11,539.) That after the inauguration of the rebellion he wore in public on several occasions the uniform of the confederate military service, and was an officer in a local or home company of troops.

These substantive charges are not seriously disputed, but the motive and circumstances of them are put in issue by Mr. Ryan. For him it is contended that he was, notwithstanding appearances, at heart a Union man. The proof of his allegiance, however, is only to be found in political associations and sentiments formed and uttered before actual war began, and, after the beginning of hostilities, of declarations against the policy of the secessionists, conversationally made in the hearing of known Union men and personal friends. It does appear generally from the evidence that Mr. Ryan from the first seriously doubted the ability of the rebel leaders to carry their designs to a successful issue, and that he comprehended and deprecated the inevitable waste and destruction that must follow such a failure; but it does not appear that he ever after the beginning of actual strife, called in question the right of secession or the desirableness of success to the southern arms, provided only they should succeed; much less is there anywhere to be found evidence of any hearty word spoken or deed performed favorable to the Union and for the Union's sake.

That the rebel military authorities were impressed with full confidence in his fealty to their cause, is evidenced by the fact that he remained undisturbed at his home, and unquestioned by them, while the few of his neighbors who were Union men in sentiment, on the bare announcement of that fact, or on the merest suspicion of its existence, were compelled to seek safety by flight, or remaining, to endure insult, imprisonment, or death; and this, too, notwithstanding that by birth, social standing, long residence, and large wealth of lands and slaves, they were as fully entitled to the regard and consideration of the rebel authorities as it was possible for Mr. Ryan to be. A notable instance of this is found in the case of Dr. James B. Sullivan, one of the witnesses for Mr. Ryan, and a kinsman by marriage, a man of large wealth, counting his slaves by hundreds; of high social standing; an officer of the United States army under General Jackson; venerable and infirm with age; by years of social contact, and by every tie of opinion and interest allied with the people of his parish and State, and of the South generally; reticent of speech and demeanor, and yet this neighbor and long-time associate and friend of Mr. Ryan, known as a Union man, was seized at midnight by the order of the rebel general Dick Taylor, and although taken from a sick-bed, compelled, in spite of the appeal of age and decrepitude, to walk long distances; confined, not with other state prisoners, but for two months in a crowded room, with two hundred and eighty negroes and thieves, and was offered no food by his captors, save such as was carried to him and his prison companions on hand-barrows, in use for stable-cleaning purposes. Whatever may have been the secret hope and wish of the contestee as to the result of a contest whose prolonged struggles were so fraught with calamity and woes as to compel other men everywhere, in vindication of their claim to manhood, to range themselves in *certain* attitude to the contest, the committee cannot escape the conclusion that Mr. Ryan did, by the facts recited, give aid and comfort to the enemies of his country, and is, by the terms of the third section of the fourteenth amendment, ineligible to a seat in this Congress.

The committee are next called to the consideration of the facts bearing on the conduct of the election itself in the said fourth district, and to the determination of the issues of fact and law presented by the "statement of grounds" as filed by the parties.

The fourth congressional district of Louisiana is composed of the parishes of Caddo, De Soto, Bossier, Sabine, Wynn, Rapides, Avoyelles, Natchitoches, Point Coupée, and West Feliciana.

The parishes challenged for fraud and other causes, and demanded to be excluded from the count by contestant, are the five first named. The contestee insists that the election was valid in all of the parishes composing the district. That an anomalous state of facts existed in many of the parishes of this district at the date of the election in controversy, will be evident to the House upon the mere exhibit of the tables of returns of registration and votes cast at the election—a state of facts so unusual and so much at war with reasonable probability, as of itself to forbid the idea that it was reached by the use of usual appliances, or could reflect the fair expression of the popular will. To this end the annexed table, compiled from official sources, is submitted.

Parishes.	Registered in 1867.			Vote on calling convention, 1867.		Vote for governor, April, 1868.		Vote Congress, November, 1868.	
	White.	Colored.	Total.	For.	Against.	Republican.	All others.	Ryan.	Newsam.
Caddo	777	2,987	3,764	2,087	259	1,242	956	2,885	1
De Soto	620	1,700	2,320	1,428	74	649	1,053	1,259	.....
Bossier	472	1,998	2,470	1,610	121	727	620	1,631	1
Sabine	459	321	780	344	15	196	259	865	1
Winn	806	248	1,054	584	49	232	284	702	43
Totals	3,134	7,254	10,388	6,053	518	3,046	3,172	7,342	46

The total registered vote for the above-named parishes, made preparatory to the general election of 1868, was 9,783, a falling off, within one year, of 605 persons registered. The congressional vote cast was 7,388, a number 2,395 less than this diminished registration.

An analysis of the table exhibits these facts: That in the election of —, 1867, there were in these parishes 6,053 electors voting as republicans for the calling of a convention, a distinctive republican measure; that in the following April there were 3,046 electors voting for Warmoth, regular republican nominee for governor, and about an equal number for Taliaferro, independent republican, while in less than seven months that vote of thousands was decreased to 46, and the democratic vote, from comparative insignificance, suddenly swelled to 7,342. It is not claimed that in the elections of 1867 and April, 1868, the adverse votes cast exhibited the then strength of the democratic party. For various reasons of party expediency, a large vote was withheld, as instance that of 1867. By the reconstruction acts, a majority of registered electors was requisite to the calling of a convention; hence, such as were adverse to the congressional reconstruction policy could advance their views in no surer way than by remaining away from the polls, and so inducing apathy and a like inactivity on the part of their opponents. But it is confidently claimed by the committee that the votes cast at these elections for the convention and for candidates upholding the reconstruction acts of Congress, were an unmistakable index

of the then republican party strength. The issues presented at the general election of November, 1868, in no manner tended to change, so far as the republicans were concerned, the array on which they had twice, within a period of eighteen months, fought and won at the ballot-box. They did present ample reasons for the fullest possible vote on the part of the democracy, as well as the steadiest support of republican candidates, by those already committed to the policy of that party; for a cardinal element of the contest was dissent from the reconstruction policy, intensified with the threat of its forcible overthrow, presenting, on the one hand, the hope of a speedy recovery of ground lost in the two preceding elections; and, on the other, the loss of all practical advantage that had been gained; for, on the republican side, the electors were, in large proportion, colored citizens, whose future all was jeopardized by the chance of democratic success.

In the light, therefore, of these recited facts alone, the result obtained is utterly inexplicable on the theory of ordinary and legitimate appliances. How were they obtained? For a proper solution of the inquiry it is essential that it be borne in mind that the republican voters of these parishes were mainly, almost wholly, colored men, and but lately slaves. That their opponents were led by their former masters, and largely made up of men, who, by long contact with, and interest in, the slave system, had come to look upon the African as having no place in the economy of society or civilization save as a motive power in the labor market, and who, by the inevitable logic of their practice and theory, found little scruple in the use of appliances directed against this race, although such appliances as they would have shrunk from and denounced, had their opponents been of their own class or color. Indicative of this state of things, the committee submit an extract from the testimony of G. W. Dillard, the editor of a leading democratic newspaper, published at the city of Shreveport, in the parish of Caddo, and to be found on page 134, of volume 2, of the testimony:

By Mr. BURDETT:

16893. Q. I understand you to say that nothing but the ordinary means of controlling intelligence was used at the last election in your parish?—A. Yes, sir; the ordinary political means.

16894. Q. Do I understand you to say that it was publicly given out by democratic clubs that negroes who would not vote the democratic ticket would not be employed?—A. Yes, sir; that is what I said. Such was our programme.

16895. Q. Did you make that programme publicly known?—A. Yes, sir; it was known throughout the parish.

16896. Q. Do you think that such means of making it known were actually taken as that the negroes generally understood it to be the programme?—A. I do not know about that. That is my judgment and idea. It was pretty well understood.

16897. Q. Do you call that the ordinary means of conducting an election?—A. Yes; I call that the ordinary means. Such a course has been pursued in this State for years and years. It is well known that if the occupants of office do not vote for their employers they lose their office.

16898. Q. How has it been in the country? Has that been the usual course heretofore taken in the politics of Louisiana?—A. In the politics of Louisiana that has been the usual course; that is, it has been well known that if a man did not vote for his employer, his employer would certainly discharge him.

16899. Q. In the good old whig and democratic days, did the whigs tell the democrats who might be working for them as mechanics or otherwise, that unless they voted the whig ticket they should have no more employment?—A. I have known such things to be done here.

16900. Q. Was that done in your vicinity?—A. The whig party has not existed for some years.

16901. Q. In your understanding of the history of politics in this State, has that been the usual course of appealing to intelligence?—A. Yes. I have heard of John Slidell hiring bands of men and sending them from one place to another place, and I

have known him to take steamers from the landing, and by fraud and corruption, and promises of office, get votes.

16902. Q. Was that any more decent than the course which you say was pursued last fall?—A. Yes. We did not take such high-handed means as that. We ignore negro suffrage entirely up there. I do not think that negroes should ever become voters.

16903. Q. Then it is a difference in degree, not a difference in principle?—A. I do not believe that any means should be used to influence any voters.

16904. Q. You admit that such means are improper?—A. I admit that all means with the design of securing votes are improper.

16905. Q. You do not mean that certainly?—A. I mean all means that indicate anything except a man's own conviction.

16906. Q. You mean everything except an appeal to his intelligence?—A. Everything but an appeal to his intelligence. That is the only means that a political party should use.

16907. Q. What reason do you give for that course being pursued on the part of the democracy?—A. They used every means to carry the parish. We told the negroes that it would tend much more to their interest to vote with their former masters and friends, with men who had known them all their lives, than to vote with strangers; and that if they voted against their old masters and friends, they would certainly discharge them and would no longer sustain them.

16908. Q. Now I ask you as a fact, whether that was any more justifiable on the part of the former masters than it would have been on the part of the former slaves to have said to those masters, "Unless you vote the radical ticket, we will not strike a lick for you, nor hoe your corn, and we have sustained you all your life?"—A. No; that is a different proposition.

16909. Q. State to the committee the difference between the two propositions.—A. The negroes have been brought up on the plantations, and have been raised by the whites; they have been sustained from their infancy. In my section of the country, negro children were taken as much care of as white children were.

16910. Q. In your judgment, then, the debt is on the part of the black men toward the white men?—A. Yes; certainly.

16911. Q. How much wages were paid up in your country to black men who worked on plantations before the war?—A. None at all.

16912. Q. If any wealth was created in your country, by whose hands was it created?—A. By the hand of the black and the management of the white.

16913. Q. Then it was a mutual benefit?—A. It was nothing more than in purchasing a horse. If I purchase a horse and put him to plow, he might as well turn around and say that he had a right to share with me. The slave was a piece of machinery.

16914. Q. Then you put it that the black man was on the same level, so far as his rights are concerned, as the horse and the engine?—A. I do not see much difference.

16915. Q. Was it on that theory that you conducted the last election?—A. That was our theory, so far as the negroes were concerned.

16916. Q. What was your theory?—A. In relation to the interest that the negro should have in the lands and estates, or anything of that sort, I say that he was purchased the same as a horse, and certainly had no more right to expect that he was going to get any share in the crop, or was to be made the equal of his master, than the horse had.

16917. Q. In the expression of that opinion, do you answer for yourself or for the party?—A. I answer individually for myself. Every man entertains his own opinion in reference to such matters.

16918. Q. This paper of yours is said to be owned by Dillard & Co. Who are the parties of the company?—A. My father, my brother, and myself were proprietors. The paper has been in existence seventeen years. My father and brother are dead.

16919. Q. Who owned the paper last year, during 1868?—A. Myself and the widow of L. Dillard, my father. I am the active and responsible owner.

16920. Q. Who was your news editor?—A. E. Mason, who is absent at present on a trip. He is still connected with the paper.

It is seldom that witnesses are betrayed into so frank an expression of their sentiments on this subject as was this witness, yet the committee believe from all the facts that his statement was honestly made, and correctly epitomizes the theory and fact on which the supporters of Mr. Ryan pressed with bloody hands to the victory they achieved in these contested parishes. It is not claimed that other and proper means were not used to secure for the democratic ticket the support of the colored voters; but it is confidently asserted, that on their failure there was no scruple in the use of every species of oppression and wrong. In these parishes there was no possible appeal for the colored citizen; no

cry that he uttered could reach the ear of any authority, either able or willing to afford him protection. His political opponents well understood this, and were not therefore content, failing to convince his judgment, to keep him from the polls, but compelled him to vote at their behest. It may be true that a few colored voters willingly voted the democratic ticket, but that number was inconsiderable, for it abundantly appears that as a class they were and are thoroughly pervaded with the opinion that their newly acquired rights can only be retained or enjoyed under the protection of the republican party. That they are grossly ignorant is necessarily true; that they are generally unable to describe in set phrase the principles of the party to which they cling is also true; but that they clearly understood their own interests in the struggle pending that election, and the essential differences between the two parties asking their support, abundantly appears from the testimony of such of them as with due regard for their future safety the committee ventured to call before them.

Illustrative of this fact an extract from the testimony of George Washington, to be found on pages 155 and 156, of volume 1, of the testimony is submitted:

GEORGE WASHINGTON (colored) sworn.

To Mr. KERR:

3833. Q. Do you think that the colored people generally understand the principles of the democratic and republican parties?—A. I don't know whether they do or not.

3834. Q. Do you think you do?—A. I hardly can say whether I do or not.

3835. Q. Do you think you understand the principles of the republican party?—A. I hardly think to say whether I do fully or not.

3836. Q. Do you think you do in part—can you state some of the principles of the republican party?—A. As far as I can see into the republican party, as I look at it, I think it suits me better than any other party; and for one reason, I take it to be the loyal party. I take it to be a party that would justify all the laws. I take it to be the party for peace.

3837. Q. What do you think the republican party would do for the colored men that the democratic party would not do?—A. I think the republican party would just give us our rights—not seat us way up yonder. I did not think they would have lifted us so high as we are now. I would have been satisfied with my freedom; but as it made a way open so that I could go to the ballot-box, I want to go and vote as I please. As to these equal rights, I don't want equal rights; I am very glad if I can have peace. I will give anybody half of my labor for peace. I don't care about office or anything; I just want to have peace so that I can go to work and buy and sell as I want to.

3838. Q. Do you think the democratic party would deprive you of peace and of the right to enjoy what you earned?—A. Yes, sir; and I have the right to believe it; I know it now. There would be many men working as I have been, but they have shot or killed them; they did it two years ago, and they'll do it now.

It is not deemed necessary to embody in this report extended extracts from the testimony in justification of the conclusions arrived at, but only to state generally the grounds upon which the committee base their recommendations, and which are the more confidently urged upon the acceptance of the House, since they are reached after a most careful personal hearing of the witnesses, had by your order. We assert the truth to be that in the contested parishes the result obtained was accompanied and secured by the use of unlawful means, and by the practice of oppressions and barbarities seldom equaled in any age or country; and that the several polls in all of said parishes ought to be excluded from the count.

The vote of the peaceable parishes, not contested, is shown by the following table:

	For Mr. Newsham.	For Mr. Ryan.
Rapides	2, 142	1, 637
Avoyelles	517	1, 342
Point Cuopée.....	1, 503	896
Natchitoches	1, 916	1, 375
West Feliciana	1, 132	652
Total	<u>7, 210</u>	<u>5, 902</u>
Majority for J. P. Newsham		<u>1, 308</u>

If we add in favor of Mr. Ryan the contested parish of Winn, the least disturbed of the contested parishes, it still leaves for Mr. Newsham a majority of 649 votes. The whole number of votes cast in the district was 20,500; the whole registered vote was 25,027; not voting, 4,507.

In ascertaining and declaring the result in this congressional district, as set forth in the certificate of election to Mr. Ryan, the vote in the parishes of Sabine, Avoyelles, and West Feliciana was rejected from the count by the secretary of state, whose duty it is by law to compile the returns. The cause of this rejection, as appears from the evidence of the secretary, was that no such returns were forwarded to his office from these parishes as are required by law. Some testimony was presented tending to cure this defect of form as to the parishes of Avoyelles and West Feliciana. As to the parish of Sabine the committee are, however, unable to state that there are any returns such as are required or contemplated by the law, or entitled to consideration as evidence that any legal election was had. And since there is abundant evidence that in that parish there was a large body of republican voters, which, by the papers tendered as returns, was reduced to but one republican ballot cast at the election in controversy, the committee are of the opinion that the vote of this parish may be properly rejected on the additional ground that there is no legal evidence that any election was had therein.

The committee do not cite the vote cast in the peaceable parishes as truly representing the popular will in those parishes. On the contrary, there were disorders, to the detriment of the contestant, in several of these parishes. Many of his supporters were, by unlawful means, kept from the polls, and others compelled against their will to support his competitor.

The committee therefore recommend that the returns from such of the parishes of the fourth district as are shown to have been controlled by the appliances of fraud and violence be excluded from the count.

A due regard for the rights of the faithful men of Louisiana, whose will was defeated, demands it, while every consideration of future peace for them, and of safety to the State, imperatively requires it.

We therefore recommend the adoption of the following resolutions :

Resolved, That Michael Ryan is not entitled to a seat as a representative in the forty-first Congress from the fourth district of Louisiana.

Resolved, That J. P. Newsham is entitled to a seat as a representative in the forty-first Congress from the fourth district of Louisiana.

MOREY vs. McCRANIE.

APRIL 27, 1870.—Laid on the table and ordered to be printed.

Mr. STEVENSON, from the Committee of Elections, made the following

REPORT.

The Committee of Elections, to whom were referred the contested election cases from the State of Louisiana, submit the following report:

The fifth congressional district of Louisiana comprises thirteen parishes, viz: the parishes of Claiborne, Bienville, Jackson, Union, Morehouse, Carroll, Ouachita, Madison, Caldwell, Franklin, Tensas, Catahoula, and Concordia. The official returns were as follows:

STATE OF LOUISIANA, OFFICE OF SECRETARY OF STATE,
New Orleans, February 16, 1869.

This is to certify that the following is a correct copy of the election returns, for member of Congress from the fifth Congressional district, of an election held November 3, 1868, and on file in this office:

Parishes of the fifth congressional district.	Frank Morey.	Geo. W. McCranie.	Patrick Kennedy.	Scattering.
Bienville	1	1, 385	.....	.....
Caldwell	24	483	10	.....
Carroll	7	777	1, 394	.....
Catahoula	149	794	15	.....
Claiborne	2	2, 944	.....	.....
Concordia	1, 552	196	7	.....
Madison	33	149	1, 435	.....
Morehouse	1	1, 515	1	.....
Ouachita	822	1, 066	27	10
Tensas	831	383	187	.....
Union	1	1, 415	.....	.....
Total	3, 423	11, 107	3, 076	10

Given under my hand, and the seal of State affixed, this 16th day of February, 1869, and of the independence of the United States the ninety-third.

[SEAL.]

GEO. E. BOVEE,
Secretary of State.

The actual vote cast was as follows :

Table showing the vote of fifth congressional district of Louisiana for member of Congress, November 3, 1868.

Parishes.	Number of votes polled for—		
	G. W. McCranie.	Frank Morey.	P. J. Kennedy.
Bienville	1,385	1	.....
Caldwell	483	24	10
Carroll	777	7	1,394
Catahoula	794	150	15
Claiborne	2,944	2	.....
Concordia	196	1,552	7
Franklin	1,213	.....	.....
Jackson	1,396	.....	.....
Madison	149	33	1,435
Morehouse	1,515	1	1
Ouachita	1,066	822	27
Tensas	383	831	187
Union	1,415	1	.....
	13,716	3,424	3,076

McCranie's majority over Morey, 10,292. McCranie's majority over Kennedy, 10,640. McCranie's majority over all, 7,216. Morey's majority over Kennedy, 348.

The official returns reject two parishes, viz: Jackson and Franklin, for the reason stated in the following official certificate:

STATE OF LOUISIANA, OFFICE OF SECRETARY OF STATE,
New Orleans, April 3, 1869.

This is to certify that it appears from the records of this office, that of the following named parishes the votes of an election held November 3, 1868, for members of Congress, were rejected for this reason, there being no legal returns made to this office, to wit: Parishes of Jackson and Franklin, belonging to the fifth congressional district, State of Louisiana.

Given under my hand, and the seal of State affixed, this 3d day of April, A. D. 1869, and of the independence of the United States the ninety-third.

[SEAL.]

PITT CRAVATH,
Assistant Secretary of State.

The testimony does not cure these parishes, but as they are rejected on other grounds we do not discuss the question. The official returns omit one precinct in the parish of Tensas, viz, Ashwood, which was not returned, but is cured by testimony.

An informal and imperfect certificate was issued to Mr. McCranie. At the first session of forty-first Congress the Committee of Elections found him unable to take the oath required by law, he having been engaged in the late rebellion in arms against the United States, and he has not been qualified, and, therefore, whatever may have been the result of the election, Mr. McCranie cannot be admitted to the seat without legislation in his behalf.

Mr. Morey claims the seat, and alleges that "a system of intimidation, threats, violence, and lawlessness prevailed in the parishes of Jackson, Franklin, Claiborne, Bienville, Union, Morehouse, Caldwell, and Catahoula prior to the election in November last; that republicans were deterred and prevented by fear from voting at all, or were compelled by threats and intimidation to vote the democratic ticket against their wishes; and that the election in the above-named parishes was a farce,

a nullity, and an outrage of the rights of the law-abiding citizens of the fifth congressional district of Louisiana."

In these eight parishes the vote was as follows:

Table showing result in contested parishes.

Parishes.	Number of votes polled for—		
	G. W. McCranie.	Frank Morey.	P. J. Kennedy.
Bienville	1,385	1	.....
Caldwell	483	24	10
Catahoula	794	150	15
Claiborne	2,944	2	.....
Franklin	1,213	.....	.....
Jackson	1,396	.....	.....
Morehouse	1,515	1	1
Union	1,415	1	.....
Total.....	11,145	179	26

We find, from the testimony, that the allegations of violence and intimidation are sustained as to six of these parishes, viz: Bienville, Claiborne, Franklin, Jackson, Morehouse, and Union. In these six parishes but five republican votes were cast; whereas, at the April election, in 1868, over three thousand republican votes were cast. This reduction was accomplished by means of violence and intimidation. The "Knights of the White Camelia" and the "Ku-Klux Klan" prevented a canvass by the republican party, broke up the party organization, drove out and killed leading men, and compelled republicans to join democratic clubs and vote the democratic ticket.

There was no lawful election in these parishes, and their returns should be rejected.

CATAHOULA AND CALDWELL.

As to the parishes of Catahoula and Caldwell, the testimony is not so conclusive; a part of the republicans voted, and it is possible that they might generally have done so; yet many were deterred, and some constrained to vote the democratic ticket, by violence and intimidation; and, considering the prevailing terror in surrounding parishes and throughout the State affecting the public mind in these parishes, we are unwilling to base a decision upon the result in these two parishes, or either of them; and therefore propose to reject them also.

The following table shows the result in the remaining parishes, admitted to have been peaceable:

Parishes.	No. of votes polled for—		
	G. W. McCranie.	Frank Morey.	P. J. Kennedy.
Carroll	777	7	1,394
Concordia	196	1,552	7
Madison	149	33	1,435
Ouachita	1,066	822	27
Tensas	383	831	187
Total.....	2,571	3,438	3,050

Total vote.....	9,057
Morey's plurality over McCranie.....	867
Morey's plurality over Kennedy.....	388
Morey's minority of all votes cast.....	2,183

THE LAW.

The House has heretofore, in the case of *Hunt vs. Sheldon*, adopted the rule *that where it appears that certain precincts and parishes (or counties) of a district have been carried by violence or intimidation, the returns therefrom shall be rejected, and the result derived from the returns from the peaceable precincts and parishes, (or counties.)*

In the subsequent case of *Sypher*, the House refused to apply this rule to that case; and your committee, submitting to the judgment of the House, consider it a duty to reconcile these two cases if possible.

We cannot advise the House to abandon the principle adopted in *Hunt vs. Sheldon*, which seems of inestimable value in preventing lawless attempts upon the ballot-box in the late rebellious States, where a new voting population is peculiarly exposed to violence and intimidation by the former master-class, prone by habit and inclination to domineer over their former slaves; and therefore we accept the decision of the House in *Sypher's* case, not as a reversal but as a limitation of the rule adopted in *Sheldon's* case, and interpret the action of the House in *Sypher's* case to mean that the rule should not be so far extended as to apply to such a case where less than one-fourth of the legal electors of the district resided, and one-fifth of the registered vote was cast, within the peaceable parishes and precincts, and the claimant received but a small majority of that vote.

In the present case, the five peaceable parishes comprise about one-third of the territory of the district, and contain less than one-half the population and registered vote, and return a minority of the vote actually polled.

The contestant received in these parishes 3,428. The registered vote of the district was 23,103. The registered vote of the five peaceable parishes was 10,400. The contestant received about one-seventh of the registered vote of the district, and about one-third of the vote cast in the peaceable parishes.

Another objection to the claim of contestee is that, if there had been

a peaceable election in every parish and precinct of the district, the contestant could not have received a majority or even a plurality of the votes cast, because the rejected parishes were democratic at best. They gave a small democratic majority at the spring election in 1868, and would have increased it considerably at a peaceable election in the fall. There were two republican candidates, who divided their party vote about equally, and it seems probable that they would have divided it in every parish had the canvass and election been peaceable, so that the contestant must have been defeated. We therefore conclude that the claim of the contestant cannot be sustained.

THE CLAIM OF CONTESTEE.

Should we consider the claim of the contestee, and count the returns of Catahoula and Caldwell, the result would be as follows :

Parishes.	Morey.	Kennedy.	McCranie.	Scattering.
Concordia.....	1, 552	7	196	.....
Tensas.....	1, 014	187	466	.....
Madison.....	33	1, 435	149	.....
Carroll.....	7	1, 394	777	.....
Ouachita.....	822	27	1, 066	10
Catahoula.....	149	15	794	.....
Caldwell.....	24	10	483	.....
Total.....	3, 601	3, 075	4, 009	10

Thus giving the contestee 4,009 votes, a plurality of 408 over Mr. Morey, and of 924 over Mr. Kennedy ; a *minority* of 2,667 of all votes cast in those parishes, being about one-sixth of the registered vote of the district, and about two-fifths of the vote of the peaceable parishes.

The precedent of the Sypher case would therefore apply to the claim of Mr. McCranie, and without a reversal of the action of the House in that case his claim cannot be maintained.

MR. KENNEDY.

Mr. Kennedy's claim, if asserted, would, in its best form, fall under the same precedent, and accordingly be rejected.

CONCLUSION.

And we conclude, therefore, that there is no valid claim in any person to the seat, and recommend the adoption of the following resolution :

Resolved, That there was no lawful election in the fifth congressional district of the State of Louisiana for representative in the forty-first Congress, and neither G. W. McCranie nor Frank Morey nor P. J. Kennedy is entitled to a seat as representative in the forty-first Congress from the fifth congressional district of the State of Louisiana.

The first of these is the fact that the United States is a young nation, and that its history is a history of growth and development. It is a history of a people who have been able to overcome many difficulties and to build a great nation out of a small colony.

The second of these is the fact that the United States is a nation of immigrants. It is a nation of people who have come from many different parts of the world, and who have brought with them their own customs and traditions. This has made the United States a melting pot of different cultures and peoples.

The third of these is the fact that the United States is a nation of pioneers. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony.

The fourth of these is the fact that the United States is a nation of freedom. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony.

The fifth of these is the fact that the United States is a nation of progress. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony.

DARRALL vs. BAILEY.

APRIL 28, 1870.—Laid on the table and ordered to be printed.

Mr. STEVENSON, from the Committee of Elections, made the following REPORT.

The Committee of Elections, to which were referred the contested election cases from the State of Louisiana, submit the following report :

The third congressional district of the State of Louisiana comprises the following parishes : St. Mary, St. Martin, Assumption, Ascension, Vermillion, Calcasieu, Lafayette, St. Landry, Iberville, East Feliciana, East Baton Rouge, and West Baton Rouge.

The official returns of the congressional election in November, 1868, are as follows :

Returns of votes cast for member of Congress in the third district, State of Louisiana, November 3, 1868.

Parishes.	Bailey.	Darrall.
St. Landry.....	4,683	
Lafayette.....	1,420	
Vermillion.....	957	
St. Mary.....	1,814	1,132
Assumption.....	1,365	1,383
Ascension.....	1,119	1,490
Iberville.....	703	2,086
West Baton Rouge.....	433	585
East Baton Rouge.....	1,350	1,246
East Feliciana.....	1,408	644
Calcasieu.....	813	2
Total.....	16,065	8,568

I hereby certify that the above is a correct copy of the returns from the third district, State of Louisiana.

GEORGE E. BOVEE,
Secretary of State, Louisiana.

NEW ORLEANS, February 1, 1869.

The parish of St. Martin was omitted because there was no legal return, and this defect has not been cured nor supplied by other evidence. Upon these returns an informal and imperfect certificate was issued to the contestee.

THE ISSUE.

The contestant alleges—

1. That the vote of the parish of St. Martin was properly rejected by the board of canvassers of this State for want of legal returns, and should be rejected for the same reasons by the House of Representatives.

2. That all the votes of the parishes of *St. Landry, St. Martin, St. Mary, Vermillion, and Lafayette*, cast at the said election of November 3, 1868, should be rejected, and the election in the said parishes declared null and void ; and this for

the reason that at the time of and before the election there prevailed in all of said parishes a state of anarchy, a total absence of all civil or military authority able or willing to keep the peace, or to protect life, or to secure a free and fair expression of the will of the people at the ballot-box.

That there existed in all of said parishes a condition of intimidation and terror, brought on and kept up by the democratic party of those parishes, so great and universal as to make it dangerous to life for the people to express their political sentiments or to vote according to the dictates of their judgment; that during this condition of anarchy the presses of the party to which I belong in those parishes were destroyed, and the editors murdered or driven from the country; that all the known leaders of the party to which I belong were either murdered or driven from their homes, and this condition of anarchy compelled the people remaining in said parishes for the most part either to refrain from voting at all, or else to vote with the democratic party; and this they were compelled to do in order to save their lives and property.

That all voting in these parishes was done under duress and coercion, and should be considered null and void on the proof of the above allegations.

And further, that in the remaining parishes of East Feliciana, East and West Baton Rouge, Iberville, Assumption, Ascension, and Calcasieu, where the election was conducted with any degree of fairness, I received a majority of the votes, and am entitled to the seat.

The contestee denies the allegations of violence and says:

Fourthly. The election held in the third congressional district, on the 3d day of November, 1868, was a valid election. Both parties allege that it was and claim seats in virtue of it. The House, sustaining the views of the majority of the committee of elections in the contested case of Hunt *vs.* Sheldon, held that violence and fraud in one or more parishes of a district might warrant the exclusion of the votes of those parishes, but did not invalidate the election as a whole.

Fifthly. Contestant's averment of fraud and intimidation is specially denied.

Both parties affirm the validity of the election in seven parishes, while the contestee affirms, and the contestant denies, the validity of the election in five parishes, including St. Martin, from which there is no valid return, and which must, in any event, be rejected.

THE REGISTRY—WHITE AND COLORED.

The number of registered electors in the district was.....	28,486
Of colored electors	18,881

Majority of colored voters.....	9,276
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The colored nearly double the white voters.

PEACEABLE AND VIOLENT.

The entire registry	28,486
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That of the seven uncontested parishes was	15,294
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That of the contested parishes.....	13,192
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A majority in the peaceable parishes of.....	2,102
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THE VOTE.

The vote cast, (including the alleged vote of St. Martin, of which there is no return,) was	26,106
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The vote in the uncontested parishes was	14,627
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The vote in the contested parishes, (including alleged vote of St. Martin,) was	11,479
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Majority in the peaceable parishes.....	3,146
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There can be no question, therefore, whether there was a valid election in the part of the district which is uncontested. It contained nearly two-thirds of the territory, and a large majority of registered electors and of actual voters.

THE CONTESTED PARISHES.

In the parishes which are contested, viz., St. Landry, St. Mary, Lafayette, St. Martin, Vermillion, the number of registered electors was 13,192, of whom 7,817 were colored, as follows:

St. Landry.....	3,102
St. Mary.....	2,085
Lafayette.....	766
St. Martin.....	1,618
Vermillion.....	246
Total.....	<u>7,817</u>

A majority of registry.

At the April election, 1868, these parishes cast 6,322 republican votes.

At the November election the republican vote was reduced to 1,155.

In *three* of these parishes the contestant received not one vote, viz., St. Landry, Lafayette, and Vermillion, where there were 4,114 colored electors registered.

In St. Martin there are said to have been cast but 25 republican votes—though there were 1,618 colored voters. In St. Mary a part of the republican vote was cast under cover of troops who arrived in the parish the *night before the election*, too late for the fact to be generally known, or for the people to be reassured.

In this parish there were 2,200 colored voters; and the republicans cast 2,048 votes and carried the parish in the spring by a heavy majority, Dr. Darrall, the present contestant, receiving a majority of 1,218 for State senator.

VIOLENCE.

These results were procured by violence. The bloodiest rioting and the darkest deeds which were done in the State were committed in these contested parishes of this district.

ST. LANDRY.

St. Landry is a rich sugar and cotton planting parish on the river Teche. The whites are generally of French descent. They were thoroughly rebellious and never conquered. There were some old whigs, some Germans, and some new settlers who were republican. *There was a colored majority.*

The canvass was active and sharp; both parties were well organized; the republicans into clubs, and the democrats as Knights of the White Camelia.

The republicans had processions and mass meetings, and mustered about 2,500 voters, when armed democrats appeared at a republican meeting and disturbed it.

Mr. Emerson Bentley, school-teacher and editor of the republican paper, noticed the disturbance, and thereupon he was attacked in his school-house among his pupils by men, who, leveling their revolvers upon

him, beat him severely. The frightened children ran out, giving the alarm and crying that Mr. Bentley was killed. This spread terror among the colored people and excited the whites. A white republican was shot. Alarming rumors arose and flew abroad that the whites were killing the colored people, and that the colored were arming for fight. The whites took possession of Opelousas, and dispatched couriers to every part of the parish to call in the Knights of the White Camelia. One or two colored couriers escaped and gave excited accounts to their friends.

As fast as the news spread, the excitement grew. Armed bands of white men scoured the country. A party mounted and fully armed attempted to capture some colored men who were collected at Paillet's plantation, near Opelousas. Firing ensued. Several whites were wounded, and four colored men killed and one wounded, and the rest surrendered and were taken prisoners to Opelousas, and lodged in jail with other captives.

During that day and night the entire body of democrats of the parish gathered in Opelousas, and it is estimated that twenty-five hundred men were there, fully armed and equipped for war. At night they took the prisoners from the jail, in the presence and with the consent of the deputy sheriff and jailor, and killed them, and it has not yet transpired who were the murderers.

There was no appearance of resistance by the colored people. Many gave themselves up voluntarily, and received a badge of protection, but the majority remained quietly in the country, at their cabins, or fled to the swamps. A prudent and peace-loving colored man in Opelousas sent word to them to be quiet. Yet, on the next day, the force of over two thousand Knights of the White Camelia, without reason or provocation, rode through the parish "hunting negroes" and killing them on sight, and the result was, that they killed over two hundred colored men, and wounded many more, while no white man was harmed in return. This riot broke up the republican party. The parish continued for weeks in a state of siege and terror. No colored man could move without a *badge* or a certificate of protection.

The "colored democratic" clubs were opened by the whites, and republicans were compelled to join them and vote the democratic ticket. A few days before the election, a white man who went into the parish to deliver republican tickets was captured, the tickets taken, and he sent out of the parish, followed by armed men who hunted him day and night, and he barely escaped alive. No republican vote was cast. Even while the committee sat in New Orleans, nine months after the election, a company of troops were unable to protect republicans in the parish.

ST. MARTIN

adjoins St. Landry. The riot extended to this parish, and a number of colored men were killed and wounded. The Ku-Klux Klan and the Knights of the White Camelia had control, and the republicans were under terror. No legal election was held, even in form, and the pretended election was void for violence.

LAFAYETTE.

This parish also adjoins St. Landry, and was under riotous control of Ku-Klux and Knights of the White Camelia, and a number of colored republicans were killed and wounded.

VERMILLION

was also under the rule of violence, though to a less extent; republicans were obliged to join the democratic clubs and take protection papers, and vote the democratic ticket. No republican votes were cast.

ST. MARY.

In this parish the local officers were republican, and though the feeling was high and bitter against the party, and the Ku-Klux Klan and Knights of the White Camelia were active, yet comparative order and security were maintained until October 17, 1868, when a band of Ku-Klux in disguise rode into Franklin, the parish seat, at night, surrounded the house where Judge Chase, parish judge, and Colonel Pope, the sheriff, then were, and assassinated them both, and left their bodies where they fell. The murderers then rode out of town, and their names are still unknown except to their confederates.

This deed struck terror into the republicans of the parish and shocked every friend of order throughout the State. It was preceded, accompanied, and followed by threats against every man who dared to stand up for the republican party. The effect was that not half the republicans voted the ticket, and these could not have done so if troops had not come into the parish on the night before the election.

Colored men were here, as in other parishes, compelled to join democratic clubs and vote the democratic ticket to save themselves and their families.

CONCLUSION:

We conclude that the returns from these violent parishes should be rejected, and those from the peaceable parishes only counted.

The result in the peaceable parishes was as follows:

	Darrall.	Bailey.
East Feliciana.....	644	1,408
East Baton Rouge.....	1,246	1,350
West Baton Rouge.....	585	433
Iberville.....	2,086	703
Assumption.....	1,383	1,365
Ascension.....	1,490	1,119
Calcasieu.....	2	813
	7,436	7,191
		7,436
Majority for Darrall.....		245

It may be added that the general condition of the State affected the republican vote in these parishes, and that if peace and quiet had prevailed throughout the State, the republican majority would have been much heavier, and in the whole district the contestant would have received a large majority. The colored registered vote of the district was nearly double the white, and many white men would, if permitted in peace, have sustained the republican party. We therefore feel that the result reached is not only legally correct, but that it carries out the will of a very large majority of the people of the district, while it vindicates the rights of the people we are bound to protect.

We therefore recommend the adoption of the following resolutions:

Resolved, That Adolphe Bailey is not entitled to a seat as representative in the forty-first Congress from the third district of Louisiana.

Resolved, That C. B. Darrall is entitled to his seat as representative in the forty-first Congress from the third district of Louisiana.

CLAIMS OF THE STATE OF KANSAS.

[To accompany bill H. R. No. 112.]

MAY 3, 1870.—Ordered to be printed and recommitted to the Committee on Military Affairs.

Mr. ASPER, from the Committee on Military Affairs, made the following

REPORT.

The Committee on Military Affairs, to whom was referred the bill (H. R. 112) to authorize the settlement of the claims of the State of Kansas for services of the troops called out by the governor of the State, upon the requisition of Major General Curtis, to repel the invasion of General Price, having had the same under consideration, beg leave to report :

That in the year 1864 the rebel General Price had invaded the State of Missouri, and was marching in the direction of the State of Kansas. This was in September of that year. Major General Curtis was in command of the department, and Major General Sykes in command of the district of South Kansas. On the 21st of September, 1864, General Sykes notified the governor of the State that a large force was marching on Fort Scott, and asked the governor to call out the militia. This Governor Carney proposed to do as soon as there was a demand in proper form by the commanding officer of the department.

On the 5th day of October, 1864, General Curtis called upon Governor Carney, in writing, to call out the militia of his State to assist in repelling the invasion. This was necessary, as there were but few federal soldiers in Kansas, and, beside, the Kansas volunteers were serving in distant fields. On the 8th day of October the governor issued his proclamation, and called upon the Kansas militia to turn out in mass, and issued orders placing the whole force under the command of Major General Deitzler. On the 9th day of October Major General Deitzler issued orders directing the militia of the State to rendezvous immediately at the places named in the order, to serve for thirty days, or less if sooner discharged. On the same day Major General Curtis issued orders—General Orders No. 53—embracing the proclamation of the governor and the orders of General Deitzler, in which he gave direction to all federal officers to aid in the circulation of these orders, to gather and subsist troops, and to do whatever was necessary to make a united effort against the approaching foe.

Immediately the militia of the State rallied in force, including a brigade of colored citizens, under the command of Captain James S. Rafferts, of the Eighth United States colored troops; and on the 10th day of October, 1864, General Curtis proclaimed martial law in Kansas, directing all places of business closed, except when necessary for health and subsistence, and only such houses to be open as might have leave granted the proprietors by general officers; and the militia forces were to be

subject to rules and articles of war, and were clothed with the same duties and authority as the regular soldiers and volunteers.

The entire able-bodied male population marched to the conflict with such means of subsistence, transportation, and arms as they could command, even passing out of the State and the military department to which they belonged, engaged in bloody and victorious battles, losing many in killed and wounded, losing artillery, transportation, and munitions of war, and assisting to win several fiercely contested battles. They fought at Big Blue, Little Blue, Hickman's Mills, Westport, State Line, Mine Creek, Mound City, and Marias des Cygnes.

On the 25th of October, 1864, the enemy having been driven into the State of Arkansas, Major General Curtis issued his orders in the field at Fort Scott, in which he declared that the necessity for martial law no longer exists, and revoked General Orders No. 54. On the 27th day of October, 1864, the governor issued his proclamation disbanding the militia and they were discharged. The militia, under this call, turned out twenty-four regiments and four battalions, numbering in all 12,412 men, and in alacrity in responding to the call, and for bravery and gallantry in the field, these men were rarely, if ever, equaled. This force was mustered out upon proper muster-out rolls, showing the length and character of the service performed by each man. The legislature of the State of Kansas passed, February 10, 1865, a law to provide a commission to adjust and audit these claims. Under this act a commission was appointed under which claims were audited, and they have been assumed by the State. During the same year a small militia force was called out to suppress Indian difficulties in the southwestern portion of the State. This call was made on the demand of Major General Curtis, commanding the department, and the claims for pay and subsistence rest upon the same grounds and should be considered in connection with the Price raid claims.

The commission audited and allowed claims for services, (on pay-rolls,) transportation, forage, subsistence, and property lost in action, the total amount being \$563,932 71, of which the State of Kansas has assumed \$500,000.

The account of the commission as made up stands thus:

For services as per muster-rolls.....	\$256,761 20
For material, supplies, and transportation	111,352 53
For damages sustained.....	159,191 34
For miscellaneous claims.....	36,627 64
Total.....	<u>563,932 71</u>

It appears that the first and second items are legitimate claims against the United States, but the government has never yet, as your committee believe, established the precedent of paying claims of the character described in the third item. The fourth item does not seem to be well enough defined for your committee to judge whether they are within the class of claims heretofore settled for by the government. The proposed commission, under such rules as would be prescribed by the War Department, would be the judges as to the character of claims presented, and none should be allowed unless they came within the rules prescribed by that department, and as defined by the practice of the government.

Application has been made by the State of Kansas to the War Department for the payment of these claims, but that department has held, February 6, 1866, that, "The expenditures having been incurred for troops not mustered into the United States service, they cannot be adjusted at the Treasury without the action of Congress. W. Scott

Ketchum, brevet major general, assistant inspector general;" and under this decision the State has presented her claim for reimbursement to Congress. For fuller particulars and more extended detail as to the matters herein, as well as for the proclamations of the governor and the orders of Major General Curtis and Major General Deitzler in full, your committee refer the House to Miscellaneous Document No. 36, second session forty-first Congress.

Your committee are unable to see any difference in the claims now presented by the State of Kansas, and claims heretofore recognized and allowed for like services to the States of Pennsylvania, Ohio, Iowa, Indiana, and Missouri.

By the act of April 12, 1866, Statutes at Large 14, page 32, \$800,000, or so much thereof as might be necessary, was appropriated to reimburse the State of Pennsylvania for money expended for the payment of the militia in the service of the United States.

This appropriation was made for the payment of the militia called into active service during the invasion of the State in 1863.

By the act of April 17, 1866, Statutes at Large 14, pages 38 and 39, a commission was authorized to ascertain the amount of money paid out by the State of Missouri in calling out, equipping, subsisting, and paying the militia of the State during the rebellion, under the restrictions and limitations of the act, and such rules and regulations as should be prescribed by the War Department, to report to the Secretary of the Treasury, when the accounting officers of the Treasury were authorized to audit and pay the same, and the sum of \$6,714,089 65 was appropriated to carry said act into effect.

This appropriation was made to reimburse the State for payments on account of calling into the service, under the orders of the commanding officer of the federal army having military command in that State, the enrolled militia of the State. The Missouri State militia, consisting of ten regiments, was a force mustered into the United States service for three years or during the war, and was clothed, subsisted, and paid by the general government.

By the act of March 29, 1867, provision was made to pay the militia of the States of Indiana and Ohio, called into active service during the year 1863 on account of the Morgan raid of that year through those States, by raising a commission, and an appropriation was made to meet the necessary amount found due those States by said commission. The commission was authorized to report to the Secretary of the Treasury, when the same would be audited, and, if found correct, be paid.

Congress had also, by act passed July 25, 1866, authorized the President to appoint a commissioner to examine and report upon certain claims presented by the State of Iowa for militia furnished for service in the State of Missouri; also for forage, transportation, and for raising, arming, and equipping troops during the war, to report by December, 1866; and afterward, by the act of March 3, 1869, an appropriation of \$229,843 was appropriated to pay the State the amount allowed by the commissioner.

It appears to your committee that the State of Kansas has a just and meritorious claim against the United States for the payment of her State militia, called into active service by General Curtis, commanding the military department; that the services were necessary, the urgency great, and were accepted and should be promptly paid for, and doubtless will be as soon as proper steps can be taken to ascertain the amount of such service, and for stores furnished to the government.

The bill (H. R. 112) referred to your committee provides for the ap-

pointment of two commissioners, not citizens of Kansas, who, in connection with an army officer to be detailed for the purpose, are to examine and report upon all claims presented by the militia called into active service by the governor, under the request of General Curtis, to repel the invasion of the rebel General Price; and your committee believe will, if passed, provide for the auditing of these claims. It calls for no appropriation, but requires a report to be made to Congress for final action. The bill is carefully drawn; under it, improper claims cannot be allowed. Your committee have made certain amendments to said bill providing for a detail of three army officers to be made by the Secretary of War to compose said commission, and with said amendment your committee recommend the passage of said bill.

PARAGUAYAN INVESTIGATION.

MAY 5, 1870.—Ordered to be printed and recommitted to the Committee on Foreign Affairs.

Mr. ORTH, from the Committee on Foreign Affairs, made the following

R E P O R T .

The Committee on Foreign Affairs, to whom was referred "the memorial of Porter C. Bliss and George F. Masterman, in relation to their imprisonment in Paraguay by the president of that republic, and subsequently on the United States gunboat Wasp and the flagship Guerriere, of the South Atlantic squadron, by United States officers," beg leave to report :

That in pursuance of the authority conferred upon them by the resolution of the House, of March 19, 1869, directing them "to inquire into all the circumstances relating to the alleged imprisonment of said Bliss and Masterman, and into the conduct of the late American minister to Paraguay, and of the officers commanding the South Atlantic squadron since the breaking out of the Paraguayan war," they commenced the examination of witnesses, at Washington City, on the 30th day of March, 1869, and continued such examination until all the testimony that could then be conveniently procured had been taken ; that finding it necessary to bring before them witnesses then absent from the United States on duty with the South Atlantic squadron, a sub-committee was appointed to take further testimony whenever the attendance of the remaining witnesses could be procured. A recess was then taken until the 21st of October, at which time Messrs. Orth, Wilkinson, Swann, and Willard, members of the sub-committee, met at New York City and resumed the examination of witnesses at that point. Subsequent sessions were held in Washington City, at which place the examination of witnesses was concluded. The testimony thus taken, covering all the points named in the resolution of the House, accompanies this report. The committee will state with reference to this testimony that much of it is of a conflicting character, and reveals a feeling of bitterness and animosity between different officers of the navy, and between the naval and diplomatic officers of the government, connected with the matters under investigation, not creditable to the parties concerned, and subversive of that efficiency in the public service which the government has a right to expect from its officials.

In discharging their duty the committee have allowed to the parties implicated, the utmost latitude in eliciting all the facts which might in any manner be relevant to the points at issue; have endeavored to reconcile, wherever practicable, all conflicting testimony, and to arrive at their conclusions uninfluenced by the feelings or prejudices of those whose official conduct has been the subject of this investigation.

As the committee accompany this report with all the testimony brought before them, they deem it necessary only to present a summary of the most prominent facts in the case.

In the month of June, 1861, Charles A. Washburn, esq., was appointed by the United States its minister resident to the republic of Paraguay, and proceeded soon thereafter to the government to which he was accredited and entered upon the discharge of his official duties. He remained at Asuncion, the capital of Paraguay, discharging his duties to the entire satisfaction of both governments until January, 1865, when, in pursuance of leave of absence previously obtained from our government, he returned to the United States.

On the expiration of his leave of absence, early in September of the same year, he left the United States, accompanied by his wife, to return to his post at Asuncion. Some time in March or April, 1865, and after Mr. Washburn had left Paraguay, a war broke out between Paraguay, on the one hand, and Brazil, Uruguay, and the Argentine Confederation, known as the "allied forces," on the other hand.

On Mr. Washburn's arrival at Rio early in October, 1865, he ascertained that in consequence of such war, and the blockade of the allies in the Plata, all ordinary communication with Paraguay was cut off, and that he could not, in all probability, reach Asuncion without the aid of some vessel or vessels belonging to our South Atlantic squadron.

On the 21st of June, 1865, Admiral Godon assumed command of this squadron—consisting of the following vessels, *Susquehanna*, (the flag-ship,) *Juniata*, *Nipsic*, *Shawmut*, *Wasp*, and *Shamokin*—which was kept in the distant waters of the South Atlantic Ocean at a heavy expense to the government, for the purpose of watching over and protecting all American interests and sustaining the honor and dignity of the national flag.

It was the duty of Mr. Washburn to proceed to his destination without unreasonable delay, and this duty was not rendered less imperative by the fact that the nation to which he was accredited was engaged in war, in the progress or result of which, our government might have interests requiring his attention. Fully appreciating this, he lost no time after his arrival in Rio in calling upon Admiral Godon and requesting of him the use of some vessel of his squadron to enable him to reach Asuncion. The committee have no doubt as to the propriety of this request. The various departments of our government, while in a measure independent of each other, are nevertheless parts of one general system. Although attached to the different branches of the public service, they are officers of the United States, and, as such, under obligations to discharge their duties in such manner as shall best promote the public harmony and efficiency. The officers of one department are under obligations to render such assistance to the officers of any other department as will facilitate and render effective the public service, when such assistance can be rendered without interfering with specific orders or more pressing duties. Applying these positions to the case under consideration, we hold that it was the duty of Admiral Godon to furnish the requisite transportation to Mr. Washburn, provided he could do so without an interference with, or violation of, express orders from his department.

The evidence discloses how the admiral received and treated this request of Mr. Washburn, the commencement of their differences being thus detailed in Mr. Washburn's testimony:

I started again in September from New York to go back with my wife, and reached Rio Janeiro, I think, the 27th of September, or, at any rate, near the 1st of October.

I saw Admiral Godon the same day. He was then stationed at Rio. I was on board his flag-ship. I had a great deal of conversation with him at different times in regard to the situation of affairs, and from other sources learned that in all probability I should not be able to get up to Paraguay without the aid of a gunboat; that all communication otherwise had been stopped. Admiral Godon remarked that he had no suitable vessel to send up the river, but that the steamer Wasp was expected very shortly; in the meanwhile he said he was going down to St. Catharines, which is four hundred miles down the coast.

* * * * *

I remained at Rio waiting for the Wasp to come, in order to ascertain about what time she might be expected at the mouth of the river, and when I could calculate upon being able to leave and go up to Paraguay. I waited there accordingly until the admiral had gone down to St. Catharines and returned. In the meantime, while he was absent I think, the Wasp arrived, and as he said she must have some improvements or repairs made upon her that would take some time, I took the first steamer after her arrival, according to my recollection, and went down to Buenos Ayres. I took an inferior steamer because I had been delayed there longer than I expected. The admiral told me before I left that he should soon follow, in ten or twelve days at least. I arrived at Buenos Ayres on the 4th of November, and it was about Christmas before I heard of the admiral's arrival at Montevideo.

This manifest indifference on the part of Admiral Godon to the reasonable request of an American minister continued for a considerable period of time, and finally resulted in excuses which soon became as numerous as they were frivolous.

Among the earliest of the reasons assigned was the want of sufficient fuel for the vessel which might be detailed on this service, and his inability to procure it.

That this was a mere subterfuge, appears most conclusively by the testimony of the following witnesses.

Captain Crosby of the "Shamokin" testifies as follows:

By Mr. ORTH:

Question. Did you have plenty of fuel?—Answer. I had.

Q. Where did you get it?—A. I filled up with coal at Buenos Ayres before starting, and replenished at Rosario, about three hundred miles distant. The squadron obtained fuel at Rosario. I could also have obtained coal at Corrientes, and at Parana.

Q. Did you accompany the admiral in his visit to Urquiza?—A. I did not.

Q. Where were you at that time?—A. I was either at Montevideo or Buenos Ayres, I do not remember which.

Q. You knew of this visit?—A. I remember his making a visit at that time. I remember Mr. Kirk speaking to me about it.

By the CHAIRMAN:

Q. Where was the general depot of coal for the South Atlantic squadron?—A. At Rio Janeiro. I also purchased coal at Montevideo and Buenos Ayres. Montevideo is a coaling port where there is always a large supply on hand, and where the United States vessels got their supply when in the river. I also purchased coal at Rosario, three hundred miles up the river, and at Corrientes when I was at that port.

Q. How much additional coal would it have required to have taken your vessel up the river more than to have lain still?—A. I consumed no coal while lying still, except for condensing water.

Q. What would be the consumption of coal for such a trip?—A. I consumed about two hundred tons from going up and down.

Q. What did you have to pay for the coal there?—A. Nineteen dollars per ton at Corrientes. I have obtained coal at Montevideo for about \$13. I have purchased coal at Buenos Ayres at various prices, ranging from \$19 to \$30 per ton. At Montevideo I could have got the coal at \$13 a ton, which was only one hundred miles distant and would have filled up fairly, but my orders were to fill up at Buenos Ayres; \$13 is the regular price for supplying United States vessels by the coal agents at Montevideo.

By Mr. WILLARD:

Q. Which consumed the most coal, the Wasp or the Shamokin?—A. The Shamokin,

Q. How much more?—A. I might safely say fifty tons more for the trip.

Q. Was there any expense attending your trip except that of fuel?—A. None other.

Q. If you had received at any time a direct order to facilitate Mr. Washburn on his way to Paraguay, would the want of coal be any obstacle in the way?—A. Not the slightest; I had no trouble at all about coal. At times coal was scarce up the river,

but I never thought of that as a serious objection. Montevideo is the general depot for coal. There is always a large supply of coal there. I have here a letter among the papers appended to this statement, written at Buenos Ayres, one hundred miles off, on that subject. At any time within a couple of weeks, at the furthest, you could get all the coal you might wish at Buenos Ayres.

Q. So you considered that excuse as amounting to nothing?—A. Nothing at all.

Captain Patterson testifies :

There was about one thousand tons of anthracite coal at St. Catherines belonging to our government.

There was a very large depot of coal at Montevideo.

Mr. Washburn also testifies in reference to the supply of coal as follows :

By Mr. ORTH :

Question. What do you know, of your own personal knowledge, in reference to the supply of coal at Montevideo, and in points on the Paraguay or Uruguay Rivers?—Answer. I have been up and down the river a great many times from Paraguay. There was always a large quantity of coal at Montevideo; as much so, according to my belief, as there is at Brooklyn, Philadelphia, or Boston. It is the intention of the coal dealers there to keep a supply equal to any emergency; sometimes the supply becomes short, but it is only for a few days. There is coal in abundance at Buenos Ayres, at Montevideo, and then at Rosario, three hundred miles above Buenos Ayres, there is always coal. I think I never passed Rosario in a steamer (and I have passed it fifteen or twenty times) that the steamer did not take in coal there; I do not remember of there ever being any scarcity; the supply there was, I think, of English coal. At Parana, about one hundred and fifty miles above Rosario, there is another coal station; and there is still another point between that and Corrientes.

Pending the controversy in reference to the supply of coal, which had become publicly known to the people of Buenos Ayres and Montevideo, causing remarks not at all flattering to our government, an American citizen residing in Buenos Ayres, Mr. Samuel P. Hale, desirous of removing the admiral's excuse and enabling our minister to reach his destination, "asked the admiral if he would send Mr. Washburn to Paraguay if American citizens there would furnish the coal," and the admiral's reason for non-compliance then was "that he did not wish to send a vessel, because the men would suffer from the climate." The evidence discloses that there was as little reliance to be placed in this as in the alleged trouble in reference to fuel. Mr. Kirk, our minister resident at the Argentine Republic, testifies that at the time the admiral made this excuse "it was in the winter season and not the unhealthy season of the year;" that he "knew several men connected with the fleet wanted to go up to Asuncion—were anxious to go—that Captain Walker and Captain Wells were both anxious to go up."

Notwithstanding the scarcity of coal, which the admiral alleged as an excuse for thus preventing Mr. Washburn's early departure, he on a very slight pretext undertook a voyage which probably consumed more coal than was necessary to place Mr. Washburn at Asuncion. The admiral relates this in his own testimony as follows:

By Mr. ORTH :

Question. When you previously went to Saint Catharines what was your object?—Answer. I went to look after some coal, to exercise, and for one other thing, which I will state. Admiral Bell was expected daily at Rio. He was my senior in lineal rank, but I had been promoted in advance of him. I carried a blue flag, and under the regulations I should have been obliged to wear my blue flag in his presence, and he to wear the red, although he was my senior. I thought that that would not be agreeable to him, and that there might be some little contention about it; and to avoid any naval complication of that kind between officers, I sailed from Rio and did avoid it. When Admiral Bell was afterward promoted for war services, he took his proper place and was placed above me.

By Mr. SHELDON :

Q. It was out of courtesy to his feelings?—A. Entirely so. I knew the sensitiveness in regard to this matter of rank. I was on my own station, and did not want to haul down my flag in violation of the regulations, nor did my officers wish me to do so. I was a matter of naval delicacy.

On another occasion the admiral performed a "pleasure trip" that consumed more time and coal than were required of him by Mr. Washburn. The circumstances were these: General Urquiza, formerly president of the Argentine Republic, resided in the interior of the country distant several hundred miles from Buenos Ayres. Admiral Godon informed this committee that he felt "that it was his *duty* to pay his respects to him." Urquiza, though a man of wealth and importance, was at that time in private life and "reported as hostile to the Argentine government." Our government then was, and still is, on the most friendly terms with the Argentine Republic, and represented then, as now; by our minister resident, Mr. Kirk. So soon as Mr. Kirk was informed of the admiral's intention to make this visit to Urquiza, he remonstrated with him, stating, among other things, "that the relations existing between the United States and the Argentine government being friendly, I thought such a visit would be interpreted by that government as unfriendly in its nature, and I thought he ought not to make the visit."

Mr. Kirk adds further:

He expressed, seemingly with some feeling, the opinion that he was under no obligations to me. I told him I was quite aware that I had no right to control his movements, but that I thought when a minister had resided for several years in a place, that an admiral coming to that place could properly consult the minister in regard to any such movement; that the minister would be more likely to know the condition of affairs and to judge of the effects of a particular line of policy than a man who had just come to the country.

Admiral Godon, in his testimony, thus alludes to this matter:

Mr. Kirk did not want me to go and visit Urquiza, who was an influential man, but not holding a position in the government. I thought that Urquiza would be the great man of the country, and that there was no reason why I should not go and see a man of his immense influence. But Mr. Kirk seemed to think it would not be pleasant and agreeable to the government, and wrote me a note to that effect. I differed from him entirely, and I wrote an answer, in which I stated that I guessed he (Kirk) would find that I scarcely needed a dry nurse. I did not go because of this little mishap. But I afterwards did go and have an interview with him, as I felt that it was my duty to pay my respects to him.

That this excuse of an "insufficiency of coal" was a mere evasion of the admiral, is furthermore apparent from his own testimony, viz:

By Mr. ORTH:

Q. You say that no coal was to be had on the river except from the Brazilian squadron. Were there not private coal stations at Rosario, Parana, and Corrientes?—A. I do not know that there were; I know nothing at all about them.

Q. You allege the expense of the coal as a reason for not sending Mr. Washburn up?—A. One of the reasons.

Q. As a reason, not the only reason. Was any proposition ever made to you by any private person to furnish the coal gratuitously? If so, what was your reply?—A. Yes, sir, there was. After I had settled in my mind that I could not go, Mr. Hale, one of the oldest merchants in Buenos Ayres, came to see me. He is an American, and a very respectable man. He mentioned that if that were the only difficulty in my way, he would furnish coal to go to Corrientes. I replied, "Mr. Hale, if it is necessary and proper to send Mr. Washburn up to Corrientes, I will burn all the coal in my squadron. But as there is no interest in the matter, I do not see why I should burn any coal to send him up there."

The question of the necessity and propriety of sending Mr. Washburn to Paraguay was not one which the admiral was called upon to discuss. That question had been settled by the government, in the appointment of Mr. Washburn.

Finding the excuses of "want of fuel" and the "unhealthiness of the season" to be rather insufficient for the course he had adopted, the admiral sought another, in the "blockade of the river by the allies." He could not take upon himself "so grave a responsibility as would be in-

volved in forcing the blockade ;" "it would be an act of war;" it "annoyed" him very much; true, it was "unfriendly" on the part of the "allies," but then he must "respect it;" and yet the sequel shows that this excuse was as groundless as the rest, and that the admiral did eventually "force the blockade," and pass Mr. Washburn "through the military lines" of the allies, all upon his own responsibility, and there was no war, nor the semblance of it, and no trouble anywhere but in his own imagination.

Let us review briefly this question of blockade by the allies.

Our government has at all times occupied a position of strict neutrality towards all the parties involved in this unfortunate and desolating war, then and still existing between the governments of Paraguay and the allies; and at the date of these transactions had diplomatic representatives accredited to each of said governments. Occupying this attitude, we had a right to expect and, if necessary, to exact from each of said governments the consideration due to such friendly and neutral position.

The right of embassy is regarded by all civilized nations as sacred and inviolable; it is the means which enables them to hold communion with each other, and hence all are interested in maintaining it.

This includes, of course, the right of "innocent passage" of a minister over the territory of another nation on his way to the government to which he is accredited, and this right of passage cannot with impunity be hindered or obstructed. These principles of public law are well known and recognized, and should be understood by those who at any time may be called upon to enforce them.

In addition to this right, existing by general law, we have a treaty with the Argentine Republic, ratified on the 30th of December, 1854, the sixth article of which provides:

If it should happen (which God forbid) that war should break out between any of the states, republics, or provinces, of the river Plate or its confluent, the *navigation of the rivers Parana and Uruguay shall remain free to the merchant flag of all nations*, excepting in what may relate to munitions of war, such as arms of all kinds, gunpowder, lead, and cannon balls.

As already stated, we had our diplomatic representatives accredited to and present at the governments of Brazil, Uruguay, and the Argentine Republic, at the date of these transactions, and also prior thereto at the government of Paraguay. Our minister at the latter government had left his position temporarily, with the assent of his government, and was now seeking to return.

The allies, composed of Brazil, Uruguay, and the Argentine Republic, under these circumstances, had no right or pretense of right to offer any hindrance, obstruction, or delay to our minister in his efforts to return over their territory to Asuncion.

The passage of an American vessel, with our minister to Paraguay on board, from Buenos Ayres or Montevideo, up the Plate and Paraguay Rivers to Asuncion, through the blockading squadron of the allies, could, under no state of circumstances, be considered a warlike or even unfriendly act; to offer any hindrance or obstruction to such passage would be both unfriendly and warlike.

The circumstances connected with the refusal of the allies to permit the passage of Mr. Washburn to Asuncion are fully and minutely detailed in the evidence accompanying this report.

The motive of the allies in this matter is very apparent. They were at war with Paraguay and believed the return of Mr. Washburn to Asuncion would afford moral support to the Paraguayans, by giving

them assurance that in their unequal struggle with the allies they had not been utterly abandoned.

These and probably other reasons actuated the allies, and they must have been much gratified as well as strengthened in their course when they found that Admiral Godon coincided with their views, and held that they had a right thus to impede the passage of our minister.

The admiral testifies very fully on this branch of the investigation, maintaining the legality of the blockade, and his desire to respect it. He said :

I had no interest in breaking that blockade, or do anything that might involve a question of war with the United States ; and I left with the full determination that I would not break that blockade.

Again :

I said to Admiral Tamandarè that when that blockade is established at Tres Bocas I will acknowledge it. I told him (Octaviana, the Brazilian minister) I would acknowledge that blockade ; that I could not resist it ; and I told him more : that whatever part he conquered I would acknowledge the blockade there, but that he must conquer it. But I did not claim the right to have Mr. Washburn go through.

Again the admiral says :

By Mr. WILKINSON :

Question. Did you or did you not think that the government of the United States had no interests that required Mr. Washburn to go up there at all ; did you entertain that idea ?—Answer. I knew that there were no American interests there at all, nor any mercantile interests, so far as the American merchants were concerned.

Q. Did that knowledge influence your action at all in this matter ?—A. Very much, in connection with the blockade ; that was the point in my mind.

Q. Did you think, as a naval officer, it was your business to judge whether the United States government had interests there that made it necessary for Mr. Washburn to proceed there ?—A. Yes ; I knew there were no interests there.

Q. But the government having appointed Mr. Washburn minister to Paraguay, and he having reached your squadron on his way there, did you regard it as your province as a naval officer to say whether it was necessary that he should go up there, or not, as an accredited minister of the United States ?—A. No, sir.

Q. Would you not think it was Mr. Washburn's province to determine that question, whether it was necessary for him to go up, or not, rather than the admiral's ?—A. I think so ; yes, sir.

Q. Yet I see by the testimony of Governor Kirk that you gave as a reason for your course that you did not think it was necessary that the United States should have any minister up there ?—A. I had the view that it was my business to judge about taking him, not about his going there. I had nothing to do with his going there.

Q. If you had, in your official capacity, thought it was necessary for the interests of the United States that he should be taken up there, would you have regarded it as your duty to have detailed a vessel for the purpose of taking him up there, and even to have broken the blockade, if necessary, that the government should have a minister there ; would you have detailed a vessel to help him through ?—A. I would not have broken a blockade because there might be particular interests there, without I knew what those interests were.

Q. But if you had regarded it for the interests of the United States ?—A. I could not have broken the blockade under those circumstances. It involved a great many questions. I should have been very careful about taking action unless my mind was very clear that the interests were equal to bringing on a war.

These were the views of the admiral and the allies in reference to this blockade.

They were not approved by our government, but, on the contrary, most emphatically and peremptorily repudiated, as appears by the following dispatches of the then Secretary of State, Mr. Seward. On the 16th of April, 1866, Mr. Seward wrote to Mr. Washburn as follows :

DEPARTMENT OF STATE,
Washington, April 16, 1866.

SIR: Your dispatch of the 8th of February last has been received. I thank you for the very interesting information which it gives concerning the military situation in the war between the several allied powers and the republic of Paraguay.

The President is surprised to learn that you have been hindered and delayed in the

military lines of the allies on your return to Asuncion. That delay is inconvenient and is deemed not altogether courteous. The President desires to regard it as a not unfriendly proceeding.

Should the hindrance still continue, you will address yourself at once to the commander of the allied forces and to the president of the Argentine Republic. You will inform them that you are proceeding as resident minister for the United States at Asuncion; that you are charged with no duties that are inconsistent with the neutrality which the United States has maintained in the war in which the allies are engaged with Paraguay. You will ask them, in the name of this government, to give you, together with your family and domestics, safe conduct through their military lines. Should the hindrance not cease within a reasonable time, you will then deliver a copy of these instructions, together with a copy of the accompanying letter of instructions from the Secretary of the Navy to Admiral Godon, and will proceed in such vessel, under such convoy as he shall furnish, to the place of your destination.

I am, sir, &c.,

WILLIAM H. SEWARD.

On the 26th of April, 1866, Mr. Seward wrote to Mr. Kirk as follows:

We sincerely hope to learn that the president of the Argentine Republic has neither ordered nor approved of this hindrance to the passage of the diplomatic representative of the United States, *so disrespectful in itself and so entirely inconsistent with the law of nations*. You will bring the subject to the notice of the Argentine Republic, and ask an explanation.

On the 27th of June, 1866, Mr. Seward wrote to Mr. Webb, our minister at Rio, as follows:

Nevertheless, the sovereignty and honor of the United States will admit of no hesitation or delay in the matter. Mr. Washburn is, therefore, now instructed to return at once to the United States if the hindrance before alluded to shall not have ceased through some proceedings of the governments concerned.

In the case that you shall not have put into execution the instructions, &c., and shall not have received the satisfactory explanation which you were instructed to ask of the government of Brazil, you will now demand such explanations peremptorily. If this shall not be given to you within six or eight days, you will ask for your passports to return to the United States.

And again, writing to Mr. Webb on the 23d September, 1866, Mr. Seward says:

So far from considering the question of the right of Mr. Washburn to proceed to his destination as debateable, the United States cannot consent to argue that question.

Following the spirit of these dispatches, and in maintenance of this dignified position of our government, the Secretary of the Navy, on the 26th of April, 1866, instructed Admiral Godon as follows:

You will, therefore, in the event of a refusal on the part of the allied authorities to permit him to reach the government to which he is accredited, (which refusal, however, is not anticipated,) furnish him with the necessary facilities for that purpose.

In the meantime the admiral commenced getting ready to ascend the river. On the 21st July, 1866, he ordered Captain Crosby, of the Shamokin, to "fill up with coal and provisions immediately, and hold yourself in readiness for service up the river." On the 16th of August the admiral was informed that the Shamokin was ready. On the 26th of August Captain Crosby informed the admiral that "the United States minister to Paraguay is at this place, (Buenos Ayres,) expecting to go up the river in this vessel." Captain Crosby testifies that his purpose in thus informing the admiral was to ascertain whether Mr. Washburn was to be sent in the Shamokin, and if so, he (Captain Crosby) desired "to prepare accommodations," &c.

To this information, the admiral briefly replies, "continue to hold yourself in readiness to sail immediately on the receipt of orders to do so." Captain Crosby, therefore, determined "to await patiently for orders."

Subsequently, on the 5th of October, 1866, the admiral ordered Captain Crosby as follows:

On application, in writing, from our minister resident in Paraguay, Mr. Washburn

to whom I have written this day, you will proceed with him and his family, in the Shamokin, under your command, to Paraguay, and land him in Asuncion.

In connection with this order it may not be improper to state that the admiral, three days thereafter, to wit, on the 8th of October, 1866, sent the following letter to Captain Crosby:

Private.]

U. S. S. BROOKLYN,
Rio de Janeiro, October 8, 1866.

MY DEAR CAPT.: I have sent you an order to take Mr. Washburn and his family up to Asuncion. It will be as well that you should know how matters stand. I had declined to take, or rather have Mr. W. taken to Asuncion some time ago. The Navy Department app'd of my course. Since then the refusal of the allies to give Mr. W. free pass through the military lines has annoyed the gover't at home, and they—that is, the State Depar't—have directed him to write to the Argentine gov't and com'r-in-chief of the allied armies and demand a free pass through the lines; if this was refused *again*, I was to take Mr. Wash'n up in a man-of-war. Presuming Mr. W. has applied as directed, I have written him to inform him of my order to you and to tell him to apply to you in writing. At all events, it is proper now that Mr. W. should go to his post, and the Secretary of State *desires* it. Mr. W. will, if he pleases, show you a copy of my orders from the Secretary of the Navy. I am not *required* to send him up if a *free pass* is given him, and it is known that orders have been sent from here *not* to obstruct his passage; but I think it is proper he should go in a vessel of war, *any how*, now; a *protest* by the blockade need not be regarded—nothing but absolute force should prevent you; however, if the river is *too low*, then you cannot go up *now*. Go as high as you can and wait till the waters rise. *Rosario* would be a good place to remain at till you can go up. The *Wasp* does not carry coal enough to go and return. Mr. Washburn must pay his own expenses. I do not feel much confidence in Mr. W.'s judgment as an international lawyer, or as to his views in general. So follow your own common sense, which will be the safest way, I hope. When you reach Asuncion do all you can to make Mr. W.'s landing of consequence to him, and give him every attention. Get me a *dozen* of those *rings* made in Paraguay, marking *prices* on them—they are for others. Get me some of that Paraguay *cordial* or *caña*. I shall be down at the river about the 1st or 15th of next month. You can get *wood* to burn in your furnaces along the river if you have means to cut it. You know that the river gets hot, full of insects, and unhealthy later; so govern yourself accordingly.

Yours, very truly,

S. W. GODON.

Captain Crosby, in his testimony, speaking of this letter, says:

I also received a private note from Admiral Godon, which, I see in his letters to the honorable Secretary of the Navy, Mr. Welles, he mentions as a semi-official note, and says in it he directed me not to regard the protest that would be made by the Brazilian admiral in command of the forces up the Paraguay. The semi-official note mentioned in Admiral Godon's dispatches was not a semi-official note, but was a private note, and so considered by Admiral Godon at the time he wrote it, as he wrote upon it the word *private*, and merely directed it to "My dear Captain," and signed himself, "S. W. Godon," without even giving his title. Here is the original note, which I considered as merely giving Rear-Admiral Godon's private views of matters, and did not consider it an order in any way, nor did I consider myself bound to obey his directions in that note or that it relieved me from any responsibility, but left me to obey his orders to take Mr. Washburn and family to Asuncion, on his application in writing, according to his order of October, 1866, and not to delay my journey; ignoring entirely in his official letter and order to me any difficulty or obstructions that I might encounter.

Yet in his private note, which he calls a semi-official note, he says to the Secretary of the Navy that a protest would be made, (see Admiral Godon's letter published, dated Montevideo, December 10, 1866, No. 132, Ex. Doc. No. 79,) and that he had instructed me to disregard it. Now, had Admiral Tamandaré opposed me, and had taken the responsibility of firing into the Shamokin, and had prevented me by force from going through the blockade, Admiral Godon's instructions to me were such as would have shielded him from the responsibility of my act, as he conveys the idea in his private note that he supposes instructions had been sent, and at the same time his orders were such as would not have saved me from his censure or that of the government, had I delayed my journey until I could hear from him, or learned that orders had been received from Admiral Tamandaré to allow the Shamokin to pass under protest.

Captain Crosby, in pursuance of his orders, proceeded with Mr. Washburn on board the Shamokin, and landed him safely in Paraguay on the 5th of November, 1866, meeting with no hinderance or obstructions more formidable than a simple "protest" which Tamandaré, commanding the blockading squadron, felt it his duty to make in the absence of specific instructions from the allies.

Thus, after a delay of over a year, for which there was, in our opinion, no justifiable excuse on the part of Admiral Godon, Mr. Washburn was permitted to reach his destination.

During this investigation your committee have seen, with regret, the existence, among the officers of the South Atlantic squadron, of a feeling of extreme bitterness and malevolence, accompanied with acts of superciliousness and petty tyranny totally unworthy of their position, derogatory to our national character, and subversive of that efficiency in the naval service which can spring only from harmony and proper respect on all occasions. The necessity and justification of these remarks are to be found in the accompanying testimony.

In this connection we also feel compelled to advert to a feeling of disrespect exhibited by Admiral Godon towards our diplomatic representatives with whom he came in contact, and which probably furnishes the motive for his course in this matter.

Speaking of Mr. Kirk's suggestion, that it might be considered improper for the admiral to pay his contemplated visit to Urquiza, he remarks, "I differed from him entirely, and I wrote an answer in which I stated that I guessed he (Kirk) would find that I scarcely needed a *dry nurse*."

The following appears in the testimony of Captain Wells:

By Mr. WILKINSON:

Question. Did you ever hear him (Godon) use any discourteous or improper language in regard to Mr. Washburn?—Answer. Unless the committee insist upon it I would decline to answer the question.

By Mr. ORTH:

Q. Why do you decline?—A. Because he did make use of an expression such as no naval officer should make use of; and for the sake of the service I would prefer not to answer the question.

The committee insisting upon an answer, Captain Wells said: "It occurred at his (Godon's) dinner table. In speaking of Mr. Washburn he called him *a damned son of a bitch*. I made no reply. I ate my dinner in silence and shortly afterward left." This occurred in December, 1866.

Captain Crosby testifies as follows:

By Mr. ORTH:

Question. How did he speak in your presence of American ministers as a general thing, favorably or unfavorably?—Answer. I could not state anything more on that point than to repeat what he says in his private note to me, which I have read. When he was asking me about paying Mr. Washburn's expenses, he remarked, "you seem to think a minister is of great importance."

Q. What was his manner in uttering these words?—A. He said them in a contemptuous way.

Mr. Kirk testifies as follows:

By Mr. ORTH:

Question. You remarked, did you not, that the refusal of Admiral Godon lessened the influence of Mr. Washburn?—Answer. It did in the city of Buenos Ayres, or lowered the character of all the representatives of our government. I made the application generally to all of us. It looked as if (and, in fact, he remarked) that we were merely the representatives of political friends.

Q. Did Admiral Godon make that statement?—A. He did: that these ministers were the mere representatives of political friends.

Mr. Washburn testifies as follows:

By Mr. SWANN:

Question. What motive could have influenced Admiral Godon?—Answer. He wanted it impressed on everybody that he was the representative of the great republic, and that nobody else was of any importance whatever. He said so verbally in regard to United States ministers a good many times. He always spoke with the utmost contempt of all ministers of the United States; said that he was not responsible to them and did not care anything for them; that they were political humbugs and worn-out politicians, &c., who were sent out there to get rid of them. That he was admiral. His conduct was most ridiculous and scandalous.

Mr. Webb, in a dispatch to the State Department of date June 10, 1867, uses this language:

While I have taken no part in the controversy between Admiral Godon and Mr. Washburn, and have not permitted myself to express to either of them an approval or disapproval of their proceedings, I have a very clear conviction that if the admiral had been so disposed he could have sent Mr. Washburn to his post of duty shortly after his arrival in the river, without any interference on the part of the allies. But it appears that the admiral made it a matter of pride to ignore the rights and privileges of ministers and consuls, and has quarreled with nearly all of them except myself; that is to say, with Ministers Kirk, Washburn, and Asboth, and with Consul Monroe, and one or two others; and I am sorry to add, that he has no friends among the officers of the squadron. With me he has never had one word of difference, but it is impossible to shut my eyes to the fact that the difficulties which have taken place and now exist on this coast between the admiral and the officers of the Department of State, and which are widely known and discreditable to our country, are mainly attributable to the admiral's meddling with what does not concern him. His own statement to me in regard to his difference with Mr. Asboth is an illustration of his mistaken conception of his rights and duties. In reply to my question why he did not permit General Asboth to go up the river in the United States vessel which took up letters and dispatches to Mr. Washburn, his answer was, that Mr. Asboth had no right to leave his legation without the assent of the State Department. I said that was true; but the minister was the only person to judge of his responsibility in so doing. He replied, "No; it was my right to demand of him whether he had authority from the State Department to leave; and because he did not produce such authority I would not permit him to go up in the steamer to have an interview with Washburn, which was quite unnecessary."

* * * * *

Then, again, in the admiral's quarrel with Consul Monroe, and his contemptuous treatment of him, he is altogether in the wrong; and, in my judgment, without any excuse whatever.

Such manifestations of feeling against our diplomatic representatives as a class by an American admiral are reprehensible, and we dismiss this part of our investigation with the single remark, that the duty to speak thus plainly of the conduct of Admiral Godon, in view of his high position and his public services, is not by any means pleasant or agreeable.

On Mr. Washburn's return to Asuncion he soon found that during his absence of nearly two years great changes had taken place in Paraguay. At the time of his departure the country was in the enjoyment of profound peace, and the people engaged in their usual avocations; on his return he found the country involved in a disastrous war; terror, alarm, and distrust prevailed on every side; industry paralyzed; the citizens denied their most precious rights, and all the resources and energies of the country pressed into the military service. Lopez, the "Marshal President of Paraguay," was entering upon that era of blood so indelibly impressed upon his subsequent career. He possessed absolute authority, and governed by his unrestrained will a country whose history presents a continued series of tyrannical exactions on the part of its rulers and of submissive obedience on the part of its people.

As the tyrant is ever the slave of jealousy and suspicion, it is natural to find that Lopez, in his imagination, saw himself constantly surrounded by enemies conspiring his overthrow.

This caused him to establish a system of espionage so general and so thorough that almost every citizen became a voluntary or involuntary informer. Torture was resorted to for the purpose of extorting confession of crimes or criminal intentions which never existed, and charges were fabricated by these means, which involved alike all who were subject to his unjust suspicions, including even those of his own blood.

The testimony shows that the victims of his cruelty are numbered not by tens but by hundreds.

Dr. Stewart, who resided for twelve years in Paraguay, and who occupied the position of inspector general of the hospitals and medical adviser of the Lopez family, having thus full opportunity of knowing that to which he testifies, states in his evidence the following :

I was an eye-witness of the horrible atrocities committed upon many hundreds of human beings who were accused of conspiracy. I saw them heavily laden with irons, and heard their cries and implorings to their torturers for mercy ; Lopez knew all that was going on.

Torture was almost indiscriminately applied, and those who survived its barbarities were put to death.

No fewer than eight hundred persons, comprising natives of nearly every country in the civilized world, were massacred during those terrible months from June to December, 1868.

* * * * *

The next relative whom Lopez seized was his own brother-in-law, Don Saturnino Bedoya, who, in July, 1868, was tortured to death by the sepo-uruguayano—a mode of torture correctly described in the published statements of Mr. Masterman and Mr. Bliss.

I saw Lopez's two brothers, Venancio and Benigno, in irons, and heard, from many witnesses of the butchery, that Benigno had been cruelly scourged and afterward executed in December, 1868.

General Barrios attempted suicide after the imprisonment of his noble wife, the sister of Lopez, but recovered, and was then laden with irons. I saw him professionally before his execution, and found him quite insane ; * * and had Mr. Washburn been thrown into prison, as was at one time suggested by Mrs. Lynch and by the late bishop of Paraguay, I am convinced that he would have been tortured and made away with like the other victims of Lopez.

The evidence submitted with this report fully corroborates the testimony of Dr. Stewart, and proves that cruelties have been practiced to such an extent that the sacred name of home and the blessings of civilization are almost unknown in Paraguay. That in the prosecution of the deplorable struggle in which that unhappy country has been involved for the last five years, old men, the youth of tender age, and in some instances even the gentler sex, have from time to time been ruthlessly swept into the constantly diminishing ranks of the army, until the country is almost depopulated.

In the absence of positive information on this subject, it is estimated by those who have had opportunities of judging, that the population of Paraguay at the commencement of this war was about six hundred thousand, which, in the short space of five years, has been reduced by disease, famine, war, and its attendant evils, to less than one hundred and fifty thousand persons, and this number consisting almost entirely of women and children.

The testimony and official correspondence state fully and succinctly the condition of affairs connected with our legation at Asuncion from the time of Mr. Washburn's return there in November, 1866, until his final departure in October, 1868, and show very conclusively that he could effect but little in his diplomatic capacity, or by his personal presence, in the way of protecting the rights or interests of the few Americans resident in Paraguay, or of any others who might apply to him for protection.

His continuance there was no longer pleasant to himself or useful to

the government. He was subjected to annoyances and indignities which soon culminated into open disrespect and contumely, derogatory to his official character and insulting to the honor of the nation he represented.

Among other things Lopez sought, by the basest means, to implicate him in one of those imaginary conspiracies which appeared to haunt him, and even made this baseless charge the subject of diplomatic correspondence.

The committee do not deem it necessary to recapitulate the evidence connected with this matter, feeling fully satisfied that the inherent falsity and absurdity of the charge carries with it its own, and its strongest, refutation.

Mr. Washburn felt that he could no longer be useful to his government in the position he then occupied; that self-respect and the duty he owed to his government required that he should, so soon as practicable, close all further official intercourse with President Lopez, who had thus wantonly assailed him, and through him the government of the United States. In view of this state of affairs, and entertaining also serious apprehensions in reference to the future safety of himself and family, while at the mercy of one who had given such abundant evidence of his capacity for the commission of crime, he wisely concluded to close his official relations and retire from the country.

In doing so he was, however, prevented, by the interposition of a military force acting under the authority of Lopez, from bringing with him two of the members of his personal suite, Messrs. Bliss and Masterman, whose memorial has been presented to Congress, and is the basis of this investigation.

Porter Cornelius Bliss, one of the memorialists, is a native of the State of New York, and went to South America as the private secretary of James Watson Webb, minister of the United States at Brazil, in 1861. He remained at that point in this capacity until December, 1862, at which time he went to Buenos Ayres and entered the service of the Argentine government for the purpose of "obtaining information concerning the character, languages, wants, manners and customs, habits, and mode of life of the Indians" in the valley of the Vermejo. In January, 1865, he embarked for Paraguay for the purpose of making a classification of the Indian tribes of that region, as indicated by the languages or dialects spoken by them. While in Paraguay he was employed by the minister of foreign affairs of that government to write a pamphlet upon the subject of the boundaries between Paraguay and Brazil. While engaged in this work war was declared by Paraguay against the Argentine government, and by order of President Lopez no foreign subject was permitted to leave the country. Finding that he would be compelled to remain in the country for some time, he proposed to Lopez to write the history of the republic of Paraguay, commencing at the date of the settlement of that country, which proposition was accepted by Lopez and a stipulated price agreed upon. Mr. Bliss testifies:

I supposed myself to be in the employ of Lopez for a little more than a year; but at last Lopez, apparently dissatisfied with my progress in the work, and perhaps not liking the cautious way in which I spoke of other nations, he being eager that I should bring my history down to more modern times, and especially eager that I should write something which would be of use to him in the war, which I was as equally desirous to avoid, I was at last met with a refusal to supply me with any more money. This occurred near the middle of 1866, as near as I can remember. (Mr. Washburn arrived in the country the 2d of November, 1866.) And when finally I was met with a refusal to give me any more money, I considered myself as disengaged, and ceased to write any further. I had then brought my history down to about the year 1810, and during all

this time I had continued to be more or less an object of suspicion. The reason of that, I suppose, was that I had not met his anticipations in the history I had written.

Soon thereafter Mr. Bliss was engaged by Mr. Washburn to collect information to be used by him in his work on Paraguay.

On the 21st of February, 1868, the Paraguayan government ordered the evacuation of Asuncion, and declared that city a military post. At that time, at the request of Mr. Washburn, Mr. Bliss, who for some time previously had occupied the position of translator in his legation, took up his residence in that capacity in the family of Mr. Washburn. On the 22d of February, Mr. Washburn informed José Berges, the minister of foreign affairs of Paraguay, that "the present critical position of affairs in and near this capital has rendered it necessary for me to take into my service several persons in addition to those hitherto connected with this legation." In a list of "persons" above specified accompanying said communication, the committee finds the name of "Porter C. Bliss, American." It will be perceived that Mr. Bliss became a member of the personal suite of Mr. Washburn in strict accordance and full compliance with diplomatic usages in this respect.

George F. Masterman, the other memorialist, is an Englishman by birth, and a subject of her Majesty's government. In October, 1861, in pursuance of an agreement with agents of the Paraguayan government, he entered its service as professor of *materia medica*, and subsequently as assistant surgeon at the general military hospital at Asuncion. In November, 1866, he was arrested and imprisoned by that government, as is alleged, "for not obeying a telegraphic order, which arrived too late for execution," and was held as a prisoner for the space of about a year, and until released through the intercession of Mr. Washburn, who testifies :

Mrs. Washburn being unwell, and there being no physician there on whom I could rely, I obtained his liberation from custody ; and when he came out of prison, where he had been for eleven months in solitary confinement, I took him to live at my house ; that was in October, 1867. He continued to live in my house and to attend as a physician in my family.

On the 24th of February, 1868, Mr. Washburn informed the Paraguayan government that Mr. Masterman was one of the persons attached to his legation.

Your committee have failed to perceive in its investigation any objection on the part of the Paraguayan government to Bliss and Masterman being recognized as attached to and forming a part of the personal suite of Mr. Washburn ; nor was there, prior to or at the time of notice being given of the fact that the gentlemen formed a part of the personal suite of the American minister, any complaint whatever, civil or criminal, against either Bliss or Masterman.

After the evacuation of Asuncion had been declared, the government of Paraguay established its capital at Luque. Mr. Washburn, in the meantime, very properly declined to change his residence in accordance with the wishes of that government, but remained at Asuncion, the former capital, until his departure from the country, on the 10th of September, 1868 ; Bliss and Masterman remaining as inmates of the legation, and performing their respective duties.

During the summer of 1868, Mr. Washburn commenced making his preparations to withdraw from his mission, and accordingly, on the 14th of July, applied to the Paraguayan government for passports for himself, family, and suite, including Messrs. Bliss and Masterman. About this time Mr. Washburn received the following communication :

[Translation.]

MINISTRY OF STATE FOR FOREIGN AFFAIRS,
Luque, July 13, 1868.

Again called upon by the judicial authorities, I beg your excellency will excuse me for molesting you once more, to request you to dismiss from your hotel the North American citizen, Porter Cornelius Bliss, and the British subject, George Masterman, accused of crimes not less grave than the others whose dismissal I have already had the honor to request.

I embrace this occasion to renew to your excellency the assurances of my distinguished consideration and esteem.

GUMESINDO BENITEZ.

His Excellency Mr. CHARLES A. WASHBURN,
Minister Resident of the United States of America.

To which Mr. Washburn on the following day replied, saying, among other things:

Respecting these two individuals, I have to say that I have always considered them as belonging to the legation. Mr. Masterman came to reside in it as a medical attendant of my family in September last, and in my note, dated February 24, but forwarded with my other note of April 4, his name is included as one of the legation. As no objection was then made, I considered that he was recognized as such by the government as much as any one in my house. The name of Mr. Bliss was likewise given as of the legation in both of the lists above referred to. In reply to my note of February 22, his excellency Señor Berges said that Bliss, not being in the class of servants, would confine himself to the legation premises, as he would be liable to arrest if found outside of them. For the last three months he has scrupulously done so, and besides has been of great assistance to me in my official duties, and so long as I remain in Paraguay I desire to retain him. Considering, therefore, as I do, both of these persons as members of the legation, I can have no discussion in regard to delivering them up or sending them from my house.

I therefore have the honor to ask for passports for all persons belonging to this legation, and that facilities for leaving the country, such as comport with the character of an accredited minister, may be furnished with as little delay as circumstances may permit.

I avail myself of the present occasion to tender to your honor the assurances of my distinguished consideration.

CHARLES A. WASHBURN.

This request of Mr. Washburn for passports having been refused, he again, on the 2d of September, 1868, writes to the Paraguayan government as follows:

I am greatly surprised that the passports have not been given me, as I furnished the list, as requested, on the day that I received your note. I therefore have occasion to repeat the request made in my note of July 14, that passports may be furnished me and the members of my legation, and such facilities for leaving the country be provided as comport with the character of an accredited minister, with as little delay as circumstances will permit.

To which he received a reply, with passports for himself, family and suite, except Messrs. Bliss and Masterman, the Paraguayan minister saying:

Among the individuals of the legation, the accused, Bliss and Masterman, as not belonging to it, cannot obtain their passports, and they must remain to answer the charges that are hanging over them before the local courts of justice.

From the fact that passports had been refused for Messrs. Bliss and Masterman, and that they were threatened with arrest by the Paraguayan authorities, Mr. Washburn anticipated trouble with reference to them. But having completed all his arrangements for leaving the country, he sent on board the Paraguayan steamer, which was to convey him to the Wasp, all his baggage and personal effects, and on the 10th of September, 1868, with his wife and servants, and being accompanied by Bliss and Masterman, he left the legation house, for the purpose of taking

passage on the steamer. The scene which occurred on this occasion is thus described by Mr. Bliss, p. 137 of his testimony :

On the 10th of September, 1868, Mr. Washburn and the members of his legation started from the legation building on the way to the Paraguayan steamer, which had been set apart for the purpose of taking him to the United States steamer *Wasp*, three or four miles down the river. At the first corner of the street Mr. Masterman and myself were surrounded by thirty or forty Paraguayan police soldiers, the same who had been on guard for two months on the lookout for us ; and in the presence of Mr. Washburn, and of the French and Italian consuls, we were driven away to the police prison ; Mr. Washburn making no useless demonstration at the time, other than to salute us in departing by a wave of his hat. We had just gone through the ceremony of parting inside the legation, as we were perfectly well aware that we would be seized, and Mr. Washburn had advised us to accuse *him* of conspiracy, if necessary, to save our lives. The Paraguayan government had stated expressly that it would seize our persons by force, if necessary, and had demanded our surrender in peremptory terms on five different occasions during the previous two months.

The troops formed a hollow square, and accosting us in the Guarani language, with shouts and jeers told us to go to the police headquarters. We were each of us provided with a satchel, in which we had packed up such necessities as we considered were most absolutely necessary for our comfort during imprisonment, and which we supposed we would be allowed to retain, including several changes of linen, combs, biscuit, cigars, a little money, one or two books, and other articles of the first necessity. On reaching the police headquarters, the negro servant, named Baltazar Carreras, who was also arrested at the same time with us, was first taken inside and ironed. Mr. Masterman and myself were remaining outside until that operation was finished. My turn came next. I was taken in, my satchel taken from me, I was ordered to strip off all my clothing, which was most carefully searched, even the seams being rigorously examined, to see if we had concealed any cutting implements or other articles considered contraband. Everything in my pockets was taken from me, with the exception of a few cigars, which were left me. I was then returned the clothing and told to put it on, and then to sit on a stone in the presence of a large circle of soldiers mounting guard. The blacksmith was called to put fetters upon my ankles, upon which I turned to the chief of police, who sat by, and asked permission to light a cigar ; he looked rather surprised at the audacious request, but allowed me to pick out a cigar, and handed me a light. I sat smoking but silent while the irons (of thirty or forty pounds' weight) were riveted upon my ankles. I was then taken to a dark dungeon in the interior of the police department, and the door closed, but left slightly ajar. Mr. Masterman was treated in the same manner a few moments later.

Mr. Masterman's account of this occurrence as published in his memorial to Congress is in the following words :

Shortly afterward Mrs. Washburn, accompanied by Mr. Meinke (private secretary) and servants, left the legation ; and then we, having waited until they were out of sight, walked rapidly along the piazza opening on the street ; as we left it some forty or fifty police with drawn swords closed around us, separated us violently from Mr. Washburn and the consuls, and drove us before them to the policia. As we had agreed, Mr. Washburn made no protest on the spot against this outrage ; it would have been utterly useless, even if it had been understood by the men, (I did not see a single officer among them,) and would but have invited rudeness to himself ; while threats of vengeance would have been both absurd and impolitic, since the *Wasp* was then lying off Villetta, twenty miles or more down the river.

Mr. Bliss, myself, and a negro servant of Dr. Carreras, were then delivered as prisoners to the chief of police ; he had us stripped naked and our clothes most carefully searched ; part of them were returned to us ; we were fettered and thrust into separate cells—mine had no window, and the door being closed I was left in total darkness until about 7 p. m., when three men entered with a lantern and tools, removed the light irons I was wearing and replaced them by a rough, heavy bar riveted to massive rings encircling my ankles, the whole so ponderous that I needed both hands to support them by means of a handkerchief used as a strap.

Mr. Washburn in his testimony also states :

At last we got ready to go. Bliss, Masterman, and myself talked it over as to what it was best to do—whether it was best to make a protest that I should refuse to go without them, or whether I should march out of the legation with the American flag flying covering all of us. But we knew that anything we might do of that kind would have no good effect ; that it would only enrage Lopez, and that a very little thing would induce him to stop all of us. Our united opinion was that if I could get away and give the alarm to our squadron as to their situation, it would be the best thing for me to do. They thought that probably before they would be killed, something would come to their relief. I started my family ahead of us so that they could not see anything of what might transpire. The French and Italian consuls went down

to the steamer with us. We had got to the front door of my house, and just as we stepped off the corridor into the street, there were about fifty soldiers, without any officers that I could see, and not one of whom, I suppose, could speak Spanish, who rushed in and caught Bliss and Masterman, and a negro servant whom Carreras had left there, and took them right off to prison. I went down to the little steamer and went aboard, and soon afterward she got up steam and went down to where the Wasp was lying, about twenty miles down the river.

The committee has no hesitation whatever in declaring that Bliss and Masterman formed a part of the personal suite of Minister Washburn, and as such were entitled to the immunities provided for by the law in such cases. Under the usages of nations, the minister had a perfect right to take such persons in his employ for the purposes indicated by him in his testimony; nor do we conceive that the right thus exercised is at all in conflict with the provision of the thirty-third section of the act of Congress of August 18, 1856, "regulating the diplomatic and consular system of the United States," which provides that "no attaché shall be allowed in any case, nor any secretary of legation, otherwise than as provided by this act." This is a simple restriction upon the minister to prevent him from incurring any expenses in his legation which are not authorized by the home government, but can hardly be construed to prevent him from engaging on his individual account such domestics and other employés as he may deem essential to the comfort of himself and family, or the convenient discharge of his official duties. Bliss and Masterman were in Paraguay prior to and at the time of their employment by Mr. Washburn. He regarded them as competent to perform the services which he required at their hands, and of this, as it was a matter personal to himself, he was of right the sole judge. There was nothing in their relations with the Paraguayan government, or with any other government, which made it improper for Mr. Washburn to employ them. He did so employ them in good faith, and they became not only a part of his personal suite, but inmates of his house, and under these circumstances entitled to the same privileges, protection, and immunities as his own wife or child. Their forcible arrest and detention, so graphically, and no doubt truly, described in the testimony already cited, was an invasion of the rights and privileges of the American legation, and an indignity to the nation it represented.

It will be seen in the correspondence between Mr. Washburn and the Paraguayan government, in reference to Bliss and Masterman and their status in the legation, and the right of the Paraguayan government to refuse passports when applied for, that the Paraguayan government at one time claimed that Bliss was "its contracted servant" without having fulfilled his promises, and that without previous notice he was employed by Mr. Washburn; and charging, at least inferentially, that Mr. Washburn had in this matter acted in bad faith toward the Paraguayan government. In the testimony of Mr. Bliss it is shown that this "contract of service" with the Paraguayan government was abrogated long before he accepted employment under Mr. Washburn; and this position is strengthened by the fact that his employment by Mr. Washburn was known to, and acquiesced in, by that government for a long period of time. This knowledge and acquiescence precludes the Paraguayan government from insisting on so flimsy a pretext as a justification or even a palliation of its subsequent high-handed and unwarrantable conduct.

At another time it is charged, as appears by the same correspondence, that Bliss was engaged in a conspiracy to dethrone Lopez, a charge which is not substantiated by any evidence whatever, unless we accept as testimony the statements which were extorted from the victims of

Lopez's tyranny, under a species of torture which hardly had its counterpart in the bloodiest annals of the "Inquisition." As a single specimen of this "torture," let us in this connection allude to a hurried and furtive interview between Masterman and Dr. Carreras, as related by the former in his sworn memorial to Congress:

In the confusion I managed to speak unobserved to Dr. Carreras. He said, "Has Mr. Washburn gone?" I replied, "Yes," and added, "How could you tell such falsehoods about him?" He removed some dirty rags from his hands and showed me that the first joints of his fingers had been crushed and were still suppurating. He had also a deep, unhealthy-looking wound across his nose. He held out his mangled hands and said, "That terrible Father Maiz tortured me on three successive days, and then crushed my fingers as you see."

We have alluded to this revolting scene for the additional purpose of remarking that "testimony" thus procured can have no weight in sustaining charges made by a government which, in this age of the world, not only tolerates but resorts to such horrid practices. But it is not averred that Bliss was guilty of this or any other criminal acts prior to his becoming a member of Mr. Washburn's diplomatic family. The same remark is equally applicable to the case of Mr. Masterman, and to us it is apparent that the object of the Paraguayan government in this remarkable correspondence was simply to furnish itself with one pretext for its gross attack upon the rights and dignity of the American legation.

The residence of a minister for the time being is regarded as the territory of the sovereign whom he represents, and is not subject to the laws or customs, civil or criminal, of the country to which he is accredited. The minister is the direct and immediate representative of his sovereign, and to subject his actions to the control of any other power is to deprive him of that independence of character so essential to the success of his mission. So highly is this right regarded by the civilized world that it is not considered competent for the minister to waive this privilege, or to consent to any infringement of it. It is a privilege belonging to his sovereign, in whom alone rests the right to control it; and in its strict observance all nations are equally interested.

In corroboration of these views the committee beg leave to refer to a few well-known and universally received authorities upon this subject:

This immunity extends not only to the person of the minister, but to his family and suite, secretaries of legation and other secretaries, his servants, movable effects, and the house in which he resides. * * * The wife, family, servants, and suite of the minister participate in the inviolability attached to his public character. (*Wheaton.*)

These ex-territorial privileges are also extended by positive international law, as much as the rights of inviolability to the family, and especially to the wife of the ambassador. * * * His suite or train are also entitled to these privileges, a violation of which in their persons affects the honor, though in a less degree, of their chief. (*Phillimore.*)

See also, in confirmation of this position, 1st Dallas's Reports, p. 120; 1st Wash. C. C. Reports, p. 232.

The Paraguayan government, as will be seen by the correspondence to which reference has already been had, assumed the position that Bliss and Masterman sought "asylum" in the legation of Mr. Washburn, and deny his right, under the circumstances, to grant this asylum. This position is not sustained by a single fact in the case, as neither of them entered his house to escape punishment for crime, or to claim immunity from any obligation arising under the civil law. Masterman was employed in his capacity as physician and became a resident member of Mr. Washburn's family as early as October, 1867, with the full knowledge and consent of the Paraguayan government; while Bliss was in the employ of Mr. Washburn for the term of nearly a year, devoting the whole of

his time to such employment, with the like knowledge and tacit consent of the Paraguayan government, and took up his residence in the family of Mr. Washburn when, by edict or proclamation, Asuncion was evacuated and declared a military post. The prior employment of both these persons, on their part and that of Mr. Washburn, was in good faith, and without any intention to evade any obligation to either the civil or criminal law of Paraguay, for no such charge was, prior to the 22d of February, 1868, alleged against either of them. With these uncontroverted facts before the committee, it can come to no other conclusion than that Bliss and Masterman formed a part of the personal suite of Minister Washburn, and as such was entitled to the protection which the law of nations afforded. In addition to the right of protection incident to the position occupied by Mr. Bliss in the legation, he is an American citizen, and in this capacity he was, in the absence of any civil or criminal charge, entitled to the protection of his government. But the Paraguayan government, not satisfied with the outrageous and high-handed measures in forcibly arresting Bliss and Masterman within the portals of the legation, under the very protection of the American flag, seized them as criminals and held them in close confinement.

The events occurring after their seizure and imprisonment are described by Mr. Bliss in substance as follows: After being manacled he was placed in a cell, where he remained until 8 o'clock the same evening, when he was taken, still manacled, to the office of the chief of police, where he was mounted on a horse *sideways* and strapped to the saddle. In this position he was compelled to ride that night to Lopez's headquarters, a distance of about thirty-six miles, in company with Mr. Masterman under a military escort. His sufferings during this journey he describes as being more terrible than the torture he was afterwards forced to undergo. Upon reaching Lopez's camp the next day at noon he was taken before a tribunal consisting of six or eight persons and interrogated as to his connection with the supposed conspiracy against Lopez. He declared his innocence of the various charges made against him, but was told he was not brought there to make any defense, but simply to confess the facts connected with his complicity in the conspiracy. This he refused to do, and again asserted his entire innocence in the matter. He was then interrogated concerning various parties who had been implicated, and threatened with torture if he still continued to deny his connection with them. Having been kept before this tribunal for twelve hours, suffering from the fatigues of the journey and hunger, he was finally induced to make a general confession in which he implicated Mr. Washburn, and charged him with various crimes and delinquencies. He was then removed to prison, and on the four succeeding days brought before the tribunal to resume his pretended confession. At the expiration of this time he was informed that his statements about Mr. Washburn were all very well so far as they went, but that he had not confessed to the full extent of his own complicity; that he had suppressed some very important information. He says:

I had had eight or ten days of enforced idleness in which to think about it, and came to the conclusion that I would say nothing more unless I was obliged to by pressure beyond my ability to endure. So then I refused to confess anything further, and the torture was put in execution. I was seated on the ground; two muskets were placed under my knees and two muskets over my neck; my wrists were tied together behind my back and pulled up by the guard; the muskets above and below were connected with thongs fastened around them so as to be readily tightened; in some instances they were violently tightened by pounding with a mallet. They continued to tighten them, bringing my body in such a position that my abdomen suffered great compression and that I distinctly heard the cracking of the vertebrae of the spine, leaving me in that posture for a long time. In fact after I was on board the United States squadron

I could never stoop forward without feeling a twinge in the back and in the abdomen. I remained in that position about fifteen minutes, the officers standing over me watching the effect of their cruel work. At the end of that time I was prepared with a new batch of novelties of the most startling character. The priests came and stood over me cross-questioning me, and extracted from me a general confession as to the heads of what they had inquired about, before they released me. After I had confessed in general, I was taken in that condition before the tribunal, who set to work to elucidate the minutiae of my new confession.

Two days after making these last astounding revelations, I was *invited*, that is to say *commanded*, to put them into narrative form along with all my previous revelations. They were considered so very important that I was desired to express them in detail, with such a satirical commentary upon them as could not well be given through the medium of judicial proceedings. I was removed from the circle of prisoners where I had been remaining until that time, to a little straw hut situated a stone's throw from the tribunal, where I remained with my irons on, but had shelter from the weather, which I had not had in any sufficient degree previously. They furnished me a rude seat and a little wooden stand with an inkstand and paper, and kept me there for the next two months, until my transfer on board the American squadron.

Mr. Masterman, in his sworn memorial, corroborates fully the testimony of Mr. Bliss, and thus describes the torture he was compelled to undergo before he gave his pretended confession :

At last I was bound hand and foot, and they applied the *cepo-uruguayana*, which I need not describe here. The pain was very severe, but I endured it in silence ; the priest meanwhile, in a loud voice, exhorting me to confess and save my life, and, perhaps, gain honor and rewards from the "merciful and generous Marshal Lopez." After a time, which seemed very long to me, I was unbound, and in a few minutes tied up again with the added weight of a third musket ; my lips were badly cut against my teeth, and the blood nearly choked me ; and when the thongs were tightened I fainted from the pain. I was lying on the ground when I recovered consciousness, so exhausted that I felt that I could hold out no longer, preferring death as a confessed conspirator to the repetition of such terrible suffering.

Therefore I told them, as they were about to put me to the *question* again, that I would confess all I knew, and they at once unbound me. I drank some water and a little broth, and then re-entering the hut, told, with a feeling of the bitterest humiliation, the same miserable tale as had been extorted from my late companions.

On the 3d of December I was again sent for, and after a long exhortation from Father Maize to always adhere to the statements I had made in my depositions, he informed me that I had been adjudged worthy of death, but if I would promise to never deny the truth of those statements, and endeavor to bring Washburn to justice, I should be exiled from the country. I replied, what is written cannot be unwritten, what I have said cannot be unsaid ; which seemed to satisfy him, for my irons were taken off.

Bliss and Masterman were thus held as prisoners, and thus treated by Lopez, until the arrival of Admiral Davis at Angostura in the early part of December, 1868.

Admiral Godon was detached from the command of the South Atlantic squadron in September, 1867, and succeeded by Admiral Davis.

Meanwhile Mr. Washburn and family were conveyed by a Paraguayan steamer from Asuncion and placed on board the United States gunboat *Wasp* and brought to Buenos Ayres. On the 26th of September, 1868, he informed the State Department of his retirement from Paraguay and the circumstances attending his departure. The facts connected with the attempt of the *Wasp* to proceed to Asuncion in the spring of 1868, for the purpose of relieving "Mr. Washburn and family from their embarrassing and probably dangerous position," are fully detailed in the testimony, and reflect no credit upon the allies in again insulting our national flag, especially in view of their previous conduct, which was then so promptly resented by our minister at Rio, and his course heartily approved by our government.

The committee have not failed to observe that this additional exhibition of bad faith on the part of the allies is, in some measure, to be at-

tributed to the same want of prompt and resolute action on the part of Admiral Davis which had characterized the course of Admiral Godon on the occasion of Mr. Washburn's return to Paraguay two years previous.

The committee have already sufficiently discussed the "right of innocent passage," through the military lines of the allies, of a vessel of war to take to or bring from his post our minister to Paraguay—a right about which there can be no reasonable doubt, and which was so fully asserted and maintained by our government—and hence it is to us a matter of surprise and regret to find two distinguished officers of our navy thus hesitating in promptly asserting and exercising it.

It is not thus that the honor of the nation can be sustained; it is not thus that our rights will be respected by others; it is not thus that our flag will continue to be an emblem of power.

Our navy is maintained at a great expense to the government, and the people expect in return that its officers shall on all occasions and in all places firmly maintain the rights of the citizen and the dignity of the nation.

Mr. Washburn arrived at Buenos Ayres on the 20th of September, 1868, and two days thereafter Captain Kirkland notified Admiral Davis (then at Rio) of the arrival of the *Wasp* with Mr. Washburn on board. On the 24th of September, 1868, Mr. Washburn wrote to Hon. William Stewart, British minister to Buenos Ayres, a copy of which letter accompanies this report, in which he details fully, among other things, the circumstances connected with the arrest of Bliss and Masterman.

The admiral (Davis) testifies as follows:

By Mr. ORTH:

Question. When did you receive the first official notice of the imprisonment of Bliss and Masterman?—Answer. I must have received the first information from a letter of Mr. Washburn to Mr. Stewart, British minister at Buenos Ayres. I then learned, for the first time, of their imprisonment.

Q. You determined then to proceed to Paraguay and effect their release without awaiting instructions from the home department?—A. Yes, sir; I awaited, however, for our minister to arrive.

Q. Did he bring instructions?—A. No, sir; but I considered it his business. He, as minister to Paraguay, had a right to be consulted, and indeed to take direction, and that was the intention of the government, as he was specially instructed to act in co-operation with me and I in co-operation with him.

Q. Did McMahon inform you of such instructions when he arrived in Rio?—A. No, sir; I did not receive those instructions until my return from Paraguay.

Q. In what light did you consider Bliss and Masterman; in the light of prisoners or otherwise?—A. I got my idea of their *status* from Mr. Washburn's correspondence and from interviews with Mr. Washburn at Buenos Ayres.

General Webb, in his testimony, fixes the date on which the admiral received the information as to the unlawful arrest of Bliss and Masterman on the 5th of October, 1868; and although the admiral informed the committee that he determined then to proceed to Paraguay and effect their release, yet it was not until the 21st of November that he left Buenos Ayres for that purpose, and arrived at Angostura on the 3d day of December—a period of sixty days having thus elapsed before the admiral went to their relief.

The facts connected with this long delay appear fully in the testimony of Admiral Davis and General Webb, to which we call the attention of the House, not deeming it important to add to this already voluminous report by quoting it in detail.

A reference to that testimony discloses another of those "differences" between the representatives of the Naval and State Departments, not by any means creditable to the public service or calculated to enhance its efficiency.

We do not regard the reason assigned by the admiral as sufficient to justify him in thus long refusing to attempt their rescue, especially as he had half a dozen of vessels at his command, and when the peculiar position in which Bliss and Masterman were placed, as well as the honor of the government, required prompt and decisive measures.

If such is to be the course of our naval officers in times and under circumstances requiring prompt and manly action, we respectfully submit to the House and the country that "admirals abroad" can safely be dispensed with, and our treasury relieved from the heavy expenses incident to maintaining our squadrons in foreign waters.

It appears from the testimony that the admiral and Mr. McMahon, on their way to Paraguay, were in daily consultation as to the proper course to be pursued in reference to the release of Bliss and Masterman, (being then in possession of the facts connected with their arrest and detention,) and the result of such joint deliberation was the following letter, which the admiral sent to Lopez immediately on his arrival at Angostura :

UNITED STATES FLAG-SHIP WASP, (4th rate,)
In front of Angostura, Paraguay, December 3, 1868.

SIR: I have the honor to inform your excellency that I have arrived in front of Angostura, having on board his excellency General M. T. McMahon, the minister of the United States to the republic of Paraguay.

As an indispensable preliminary step to the presentation, by General McMahon to your excellency, of his credential letters, I have to request that Messrs. Bliss and Masterman, the persons arrested and detained in Asuncion, while under the protection and attached to the legation of the previous United States minister, be restored to the authority of the United States flag.

Knowing that before the occurrence of this arrest and detention it was the earnest desire of the government of the United States to continue, under the existing circumstances, its friendly relations with the republic of Paraguay, a desire sufficiently manifested by the prompt appointment of General McMahon, it is my hope that your excellency will hasten to remove the only obstacle which stands in the way of these relations.

I have the honor to be, with the highest respect, your excellency's most obedient servant,

C. H. DAVIS,
*Rear-Admiral Commanding the Naval Forces
of the United States in the South Atlantic.*

His Excellency Marshal Don FRANCISCO SOLANO LOPEZ,
President of the Republic of Paraguay.

The manly, bold, and honorable position assumed in this letter reflects great credit upon its author, and exhibits in him at that time a due appreciation of the rights of the country he represented and of the outrage which had been perpetrated.

Upon the receipt of this letter Lopez, instead of complying with its demands, requested a personal interview with the admiral, which was granted, and which is thus detailed in his dispatch to the Secretary of the Navy of December 12, 1868 :

The business of this interview may be briefly stated : President Lopez began by saying that it was his fixed purpose to deliver Messrs Bliss and Masterman into my keeping ; that he preferred to arrange this matter with me in person rather than it should pass through the usual channels of official intercourse ; that he was on this account glad I had come up myself, and that where both parties were so perfectly in harmony as to what was to be asked for and acceded to, there could be no difficulty. In this preliminary conversation the President said repeatedly, with regard to the men, "*se debe entregarlos,*" and with regard to the difficulty, "*se ha de arreglar.*"

This interview was sought by Lopez, undoubtedly, in the hope of evading the unconditional demand of the admiral, and inducing him to change the terms of his letter ; and the sequel shows that he was but too successful.

Lopez was well satisfied with the result, for Dr. Stewart testifies that on his return to headquarters "he was smiling and shrugging his shoulders and asked me, 'what think you of the Yankees now? We are to have a successor to Washburn.'"

After the interview, the admiral says he still regarded Bliss and Masterman "exactly in the light in which they were placed in Mr. Washburn's correspondence," which he describes, in said letter to Lopez, as "persons arrested and detained in Asuncion while under the protection of the previous United States minister;" and yet he informs the Navy Department that he "finally assented to the wishes of Lopez and withdrew the letter." Is it any wonder that this remarkable course of the admiral caused Lopez to "smile and shrug his shoulders," for in this brief interview he induced him to recede from a position in which he was clearly right, a position that had been taken after most thorough deliberation, and in which he would have been fully sustained by his government.

Lopez knew that he had ruthlessly trampled upon the rights of our legation, and that an American admiral had called upon him, in the name of the nation he had insulted, for prompt redress, and hence this letter, so true in its statements and so fearless in its manner of asserting them, was distasteful to Lopez, for the very reason that the statements were true.

The admiral informs us that "the manners of the President (Lopez) were conciliatory, courteous, and frank;" that "he objected to the letter because a part of it had the air of menace," and forgetful of himself and his government, the admiral changed his position without changing his opinions, *withdrew the letter*, and the next day sent the following:

UNITED STATES FLAG-SHIP WASP, (4th rate,)
In front of Angostura, Paraguay, December 4, 1868.

SIR: I have the honor to apprise your excellency of my arrival in front of the batteries of Angostura.

My object in placing myself in personal intercourse with your excellency is to request that Messrs. Bliss and Masterman, the individuals arrested and detained in Asuncion, on the 10th day of September last, may be delivered into my keeping, subject to the order of the government of the United States.

It does not belong to me to define or even to consider the status of these individuals.

But on this subject your excellency will, I doubt not, repose confidence in the justice and friendship of the United States, which has afforded your excellency many recent proofs of its respect and sympathy.

Any papers your excellency may be pleased to send with these individuals will be transmitted to Washington by the earliest opportunity.

I have the honor to be, with the highest respect, your excellency's most obedient servant,

C. H. DAVIS,
Rear-Admiral Commanding the Naval Forces
of the United States in the South Atlantic.

His Excellency Marshal DON FRANCISCO SOLANO LOPEZ,
President of the Republic of Paraguay.

Now mark the difference in these letters; the one dated the 3d and the other the 4th days of December. In the former he "requests that Bliss and Masterman, the *persons* arrested and detained in Asuncion, *while under the protection and attached to the legation, &c., be restored to the authority of the United States flag;*" in the latter he states his object to be "to request that Bliss and Masterman, *the individuals* arrested and detained in Asuncion, &c., *may be delivered into my keeping, subject to the order of the government of the United States.*" He goes further and adds: "It does not belong to me to define or even to consider the *status* of these individuals;" and still further, volunteers to be the bearer of "any papers" which Lopez would send with these individuals, to Washington.

The contents of this letter show very clearly what transpired between the admiral and Lopez during their interview; that Lopez "revealed" to him that Bliss and Masterman had been engaged in a conspiracy; that they had confessed their guilt, and in such confession had implicated Mr. Washburn; that these "revelations" made a profound impression on the mind of the admiral, and that he gave them credence we can readily believe, when we recur to the contents of this second letter. Else how can we account for the remarkable change in the admiral's position. In the former he asserts that Bliss and Masterman were arrested "while under the protection and attached to the legation," &c., in the latter as "individuals arrested and detained in Asuncion." In the former he "requests that they be *restored* to the authority of the United States flag;" in the latter, "that they may be *delivered into my keeping*, subject to the order of the government of the United States." In the former he defines their status very clearly; in the latter he says: "It does not belong to me to define or even consider their *status*."

The admiral had received no additional intelligence, in reference to the arrest and detention of Bliss and Masterman, to cause this change of position, except what he may have received from Lopez, and under the circumstances he had no right to receive or act upon any intelligence from that quarter. On the contrary, it was his duty to spurn any that might be thus offered, contradicting the official report of Mr. Washburn.

In this matter Lopez was exceedingly fastidious; he was not satisfied even with this condescension on the part of the admiral, and hence directed his chief military secretary to reply to this second letter, as follows:

The President regrets that it is not in his power to accede to the delivery, in the terms of your excellency's note, of the accused, Bliss and Masterman, to the keeping of your excellency, who, if not called upon to define or even to consider, should not at least conceal from yourself the fact of their being criminals, deeply committed in the affair of a horrible conspiracy, very particularly the former. Nevertheless, his excellency the President of the Republic would cheerfully consent to the delivery of the criminals Bliss and Masterman, *provided it were requested in a manner more in conformity with the fact of their being accomplices of Mr. Washburn.*

As this correspondence progressed Lopez became emboldened, and added insult to injury, by charging that Bliss and Masterman were criminals engaged in a horrible conspiracy and accomplices of Mr. Washburn. And yet this gross insult to our nation, this base and unfounded charge against an American minister and two members of his diplomatic family arouses no resentment, so far as the testimony shows, in the mind of the admiral. He receives it without a murmur of disapproval, and on the very day on which this insulting epistle is placed in his hands, he informs Lopez that he has "the honor to acknowledge the receipt of a communication from his excellency," &c., "but that your excellency objects to their (Bliss and Masterman's) delivery under the terms of my note," and then adds:

I wish your excellency to believe that it is no part of my official duty either *to offer or to refuse any terms* which will affect the alleged criminal condition of the two persons in question. The papers accompanying these two persons will sufficiently express to the government of the United States the judgment of the government of Paraguay in their cases.

This ought to have satisfied Lopez; thus far he had gained his point; he dictated his terms, and they were accepted; but he had still another request to make of the admiral, which he ordered his secretary to forward to him in these words:

In this respect I am happy to inform your excellency that the prosecuting officers who have received the orders of his excellency, with a recommendation to be brief,

expect to get through in time for the embarkation of the criminals, Bliss and Masterman, by 3 o'clock of the afternoon of the 8th instant, and at the same time they have expressed a wish, which they hope will be gratified, that your excellency will name one or two of your officers who can witness, on the morning of the same day, the verification of the declarations of both of the accused in the case.

Having already gone so far to accommodate him, he could not well refuse to take another step in the same direction, and hence the admiral says :

In obedience to your excellency's wishes, I shall appoint two superior officers, one of them the chief of my staff, to witness the verification of the declarations of the accused, Bliss and Masterman.

In the testimony of the admiral, herewith submitted, and to which we refer the House, he gives the reasons for the course he pursued in this correspondence ; but, in the judgment of the committee, these reasons are altogether inconclusive and unsatisfactory.

Pursuant to this concession on the part of the admiral, he detailed Captains Ramsay and Kirkland to proceed to the camp of Lopez, to bear witness to a most extraordinary spectacle, that of two "persons attached to and under the protection of the legation of our minister, Mr. Washburn," brought as prisoners before the tribunal, and in their presence compelled to verify a confession which the Paraguayan officials *knew* was extorted from them, which our officers *believed* was extorted, and which the admiral says he believed to be untrue.

This humiliating scene is thus described by the officers :

Captain Ramsay says that Bliss was not informed by himself or Captain Kirkland who they were or what was the object of their visit. In answer to the question, "Were you not sent there to protect Bliss and Masterman, as American citizens?" he says :

No, sir ; the case, as I understood it when I left the ship, was that President Lopez intended to give up Bliss and Masterman to Admiral Davis immediately, but that before they left the country he wanted all these declarations verified, and wanted that verification in the presence of a United States officer. That was the way I understood it, and my duty was only to go there and be witness to what they said.

By Mr. WILKINSON :

Q. Did you give these men to understand that they would be protected in telling the truth, that the government of the United States would protect them if they did so ?—A. No, sir ; our presence was sufficient guarantee of that.

By Mr. ORTH :

Q. In this connection I wish you would describe Mr. Bliss's personal appearance, his clothing, &c., and likewise the place in the court-room these two men occupied in respect to the judges and the officers constituting the court ?—A. When Mr. Bliss came in, the appearance of his face was as much like it is now as it possibly could be. He was perfectly calm and self-possessed, and answered every question as coolly as he possibly could at any time. His clothes were very shabby, and his pantaloons were split up a little at the bottom of the legs, as if they had been worn a great length of time. He wore a pair of shoes. I noticed they were very good shoes, except that the India rubber was a little stretched. His clothes looked as though they had been worn a great deal without any care. The tribunal was in a small room. Bliss and Masterman sat on one side of the room ; on the opposite side sat the officers I spoke of. At the end of the room was a table, and behind the table sat the two judges and the person who read, and opposite them, at the other end of the room, sat Commander Kirkland and myself.

By Mr. ORTH :

Q. Had you any conversation with Mr. Bliss at that time ?—A. None whatever.

Q. Did you mean by that memorandum that you thought these confessions were extorted from him ?—A. I took it for granted that they were. I never saw a man exhibit such fear as Masterman did. We returned to the ship about nine o'clock.

By Mr. WILKINSON :

Q. Did you make any report to the admiral when you arrived ?—A. I told him, as nearly as I could recollect, everything that occurred.

Q. Did you apprise the admiral of the impression made on your mind as to whether those confessions were voluntary or extorted?—A. I am pretty sure I did, because this memorandum was written immediately on getting on board the ship.

Q. What reply did the admiral make to this?—A. I don't remember. Of course, when we got back, the admiral was very anxious to know what had occurred during the day, and I gave him as clear a statement as I could.

Q. Were your orders to bring Bliss and Masterman back with you to the ship?—A. No, sir.

Q. Did you make any suggestion to the admiral in regard to bringing them aboard that night?—A. No, sir.

Q. You left them in the hands of the Paraguayan authorities when you passed from the tribunal to the vessel?—A. Yes, sir; we left them just as we found them.

* * * * *

Commander Kirkland, alluding to the same transaction, says:

* * * * *

By Mr. ORTH:

Q. State particularly what occurred on that occasion, from beginning to end.—A. I will premise by stating that I thought the whole thing was ridiculous, and I did not pay any particular attention to it, except to some parts of it.

Q. Why did you regard it as ridiculous?—A. I knew that their declarations would not amount to anything in the United States. I thought it was a piece of ignorance on the part of the Paraguayan authorities.

* * * * *

Q. Now relate what occurred at this tribunal; who were present on the part of the Paraguayan government?—A. There were two judges, or at least I supposed they were judges. One or both of them were priests. There were two men whom I think were Paraguayan officers, and one man was reading these declarations. One or two of these men came in from time to time. I think there were four or five Paraguayan officers there.

Q. Who was first brought in?—A. Mr. Bliss.

Q. Did you have any conversation with Bliss when he first came in?—A. I do not think I did.

Q. Did either you or Captain Ramsay make known your character?—A. I think one of the parties present said: "These officers are here to witness your declarations."

Q. Did he state who you were, that you were United States officers?—A. I do not remember.

Q. Were you in uniform?—A. I was in uniform, and so was Captain Ramsay, with our swords on.

* * * * *

Q. But you did not make known to him (Bliss) the object of your visit?—A. I do not think I did.

* * * * *

Q. Did you see anything about him that led you to believe that he had been placed in irons?—A. The legs of his breeches were considerably worn; I should think from that he had been in irons.

Q. What occurred after Bliss entered?—A. He came in, and these declarations were read over to him by these men. I did not pay particular attention to them, as I thought the whole proceeding a humbug.

Q. Did you regard Mr. Bliss and Masterman at that time as under the control of the Paraguayan authorities?—A. I did.

Q. Did you exercise any control over them?—A. No, sir; I was not sent there for that purpose.

Q. You were sent there to hear what you style a "humbug proceeding" being gone through with?—A. Yes, sir.

The "declaration" referred to in the foregoing testimony is a so-called confession that Bliss and Masterman were engaged in a conspiracy to dethrone Lopez, and that Mr. Washburn, forgetful of the duties he owed to himself as a man, and to the government whose minister he was, was engaged in the same conspiracy. When we reflect that this declaration had not the least semblance of truth; that it was extorted from these trembling and friendless prisoners under torture, and that the admiral and his two witnesses had every reason to believe it had thus been extorted, we seek in vain for any excuse or palliation for their connection with this shameful transaction.

On the same night Bliss and Masterman were delivered as prisoners to Admiral Davis, and placed on board the Wasp.

On the following day Mr. McMahon presented his credentials to Lopez, and entered upon the discharge of his official duties.

Mr. McMahon had received his final instructions as minister resident to Paraguay from the State Department on the 3d day of September, 1868, and before the President could have been fully advised of the facts to which we have referred, and which were subsequently brought to his knowledge. It is reasonable to assume that no successor to Mr. Washburn would have been appointed had our government then been in possession of these facts, and this presumption is strengthened by the subsequent action of the President in recalling Mr. McMahon, and very properly declining thence hitherto to hold any diplomatic intercourse with the Paraguayan government.

This committee have no hesitation in saying that this action of the President under the circumstances meets their decided approval.

There is a conflict of testimony in reference to the *status* of Bliss and Masterman after their arrival on board the *Wasp*, and subsequently on board the *Guerriere*.

Admiral Davis, in his letter to the Secretary of the Navy, states that Messrs. Bliss and Masterman were received on board as *temporary visitors*, and in confirmation of this position he states in his testimony that "Bliss and Masterman could not have been made prisoners in the squadron under my command by the authority of any one except myself; that I never gave such authority; and that any statement, by whomsoever made, which declares that these men were ever regarded as prisoners in the squadron under my command, is incorrect in point of fact."

Were Bliss and Masterman treated as prisoners by Admiral Davis?

Dr. Gale, surgeon in the navy, referring to Bliss and Masterman, says:

They came on board about the 10th of December, 1868, in the night. I saw them next day, I think, and found them forward on the berth deck. I understood they were under charge of the master-at-arms. They were treated as prisoners. I considered that they were prisoners.

Lawrence C. Carpenter, sergeant of marines on board the *Guerriere*, testifies:

I had them in charge. We received them from the *Wasp* at Montevideo and took them to Rio. It was somewhere about Christmas, 1868. They were under my charge for one week. They were put under my charge, as I understood, as prisoners. I received orders from Captain Fendall to take charge of them; not to allow them to hold communication with any one belonging to the ship; to allow them to hold no communication with the shore; to write no letters, or send them off without first being examined by Captain Woolsey.

Dr. Duvall, surgeon in the United States Navy, says:

While Bliss and Masterman were on board the *Guerriere* Captain Woolsey came out and told the executive officer to send the men (Bliss and Masterman) off the quarter-deck into the port gangway, a greater indignity than which cannot be offered to any man on board a man-of-war. The port gangway is where all the servants, scullions, &c., congregate.

At any rate, immediately after breakfast the officers of the ship received orders to put those two "men," as they were called, under a sentry, and not allow them to communicate with anybody on shore, or write any letters. They were prisoners, evidently. Captain Woolsey said: "You know very well that these men have been under surveillance while on board the *Guerriere*. They are not so now, because we are at sea, but they will be put under sentry's charge when we reach Rio." He then told me that these two men, Bliss and Masterman, were scamps and scoundrels.

Commander Kirkland, who was at the time of Bliss and Masterman's reception in command of the *Wasp*, says:

By Mr. ORTH:

Question. What orders did you give in regard to their being placed in charge of the

master-at-arms?—Answer. I told him to put a sentry over them, and not allow the men to interfere with them. They were put under my supervision, and as I could not watch them, I put another man to do it.

Q. Did you regard them as *temporary visitors* to the Wasp?—A. I did not call them anything at all. I did hear that they were guests, but they were not my guests.

Q. How long was that sentinel placed over them?—A. I think that sentinel remained there as long as they remained on board the Wasp.

Q. What was your object of putting the sentinel over them?—A. Not to allow the men to interfere with them.

Q. Then your object in placing these sentinels over these men was to protect them?—A. I thought that the whole proceeding was a piece of humbug.

Q. Suppose the sentinel had allowed them to go ashore, would you not have punished him?—A. I would, undoubtedly.

Q. Then the sentinel would not have regarded it as a piece of humbug?—A. Perhaps not.

Q. Suppose that Lopez had surrendered these prisoners into the hands of the admiral unconditionally, would your treatment have been different from what it was?—A. Just the same, with the exception, perhaps, of the orderly.

Mr. Worthington, our former minister at the Argentine Republic, testifies as follows:

By Mr. ORTH:

Question. Did you see Bliss and Masterman after their arrival?—Answer. I did.

Q. On what vessel?—A. On the *Guerriere*, in the harbor of Montevideo.

Q. Were they under surveillance or restraint of any kind upon that vessel?—A. Very clearly they were prisoners.

Q. Were they so regarded?—A. Yes, sir; so regarded as prisoners, from what the admiral said, and what everybody else said. They were not in chains.

Q. Were they deprived of their freedom?—A. Very clearly they were on that ship as prisoners, and as I understood from the admiral, had been received as prisoners.

Q. Were they held by him at that time as prisoners?—A. I clearly understood that from him.

By Mr. WILKINSON:

Q. Was that the reason you asked his permission to see them?—A. It was; because I was aware of the fact that they were not free agents on board of the ship, and I felt it my duty to obtain the authority of the officers of the ship before communicating with them.

By Mr. SWANN:

Q. What information had you that induced you to think they were held as prisoners on board that ship?—A. The general report of the community, and from my conversation with Captain Ramsay and other officers of the ship after my arrival on board, besides letters I received from General McMahon at the time of the surrender of them by Lopez.

Q. They told you Bliss and Masterman were prisoners?—A. Yes, sir; and besides that, I had received letters to that effect from General McMahon upon the return of the Wasp.

Q. Did those letters recognize the fact that they were held as prisoners?—A. Yes, sir; General McMahon wrote to me * * * stating the circumstance of his arrival, the examination of Bliss and Masterman before the commission, the determination of Lopez to surrender them, and in a subsequent letter stated to me that at such a time they were surrendered as prisoners to be carried to the United States to be tried on the charges that Lopez had preferred against them.

The committee submit that this testimony shows that, however Admiral Davis may have regarded Bliss and Masterman while on board the Wasp and *Guerriere*, they were in truth, and in fact, "prisoners," and deprived of their freedom, until their arrival at Rio, and under all the circumstances developed in this investigation we fail to see any reasonable excuse for the course which was adopted. They were unlawfully arrested by Lopez while entitled to the protection of the American flag, and it was by virtue of this right to protection, and for the purpose of

enforcing it, that the admiral went to their relief, and effected their deliverance; and hence the deprivation of their freedom or the surveillance under which they were held was unjustifiable, even admitting a promise, either express or implied, which Lopez exacted as to the manner of their treatment subsequent to their delivery to the admiral. On their arrival in this city they reported (according to promise given to the admiral) to the Secretary of State, who informed them there was nothing in the possession of the government to justify their further detention.

During this investigation the question has suggested itself to the committee as to whether any legislation is necessary to provide against the recurrence of such conflicts between the officers of the navy and diplomatic representatives as have arisen in the case under consideration.

In view of the fact that conflicts of this nature are of very rare occurrence, this being the only one of so serious a character in all our past history, and in view of the further fact that these officials are at all times subject to the control and direction of the President, we deem such legislation inexpedient.

In conclusion, the committee present to the House the following resolutions, and respectfully recommend their adoption:

Resolved, That Rear-Admiral S. W. Godon, in neglecting to aid Mr. Washburn in reaching the government to which he was accredited, failed to discharge his duty as commander of the South Atlantic squadron.

Resolved, That Bliss and Masterman were members of the personal suite of Mr. Washburn, and were, therefore, under the law of nations, entitled to the protection of the officers of the United States.

Resolved, That the forcible arrest and detention of Bliss and Masterman by the government of Paraguay was a violation of the law of nations, and a gross insult to the honor and dignity of the United States.

Resolved, That we approve the action of the President in withdrawing our minister (General McMahon) from the government of Paraguay, and in declining to hold further diplomatic intercourse with said government.

Resolved, That it is clearly the duty of our naval officers on foreign stations to render all reasonable assistance to the diplomatic officers of the United States in the discharge of their duties; and that a refusal or neglect to render such assistance when required, or any discourtesy by such naval officers towards such diplomatic officers, should be the subject of inquiry and punishment by the Navy Department.

Mr. WOOD, on behalf of Mr. SWANN, submitted the following resolutions for the minority of the Committee on Foreign Affairs:

Resolved, That the forcible arrest and detention of Messrs. Bliss and Masterman, while under the protection of the American flag, was an outrage which demanded prompt reparation.

2. That Mr. Washburn in submitting to the insult of President Lopez, in his refusal to grant passports to Messrs. Bliss and Masterman, and in separating himself from them in the streets of Asuncion, and leaving them in the hands and at the mercy of the Paraguayan authorities, caused a serious compromise of the American flag, and could not be justified upon any consideration of personal safety; and that Minister Washburn, in justice to his position and the honor of his flag, ought not to have accepted

his passport until permitted to withdraw with every member of his legation.

3. That in the hostile or unfriendly attitude assumed by Minister Washburn toward Lopez and the Paraguayan government in his relations and intercourse with the President of that republic, and in associating Bliss and Masterman with his legation, (one a British subject, suspected by Lopez of a conspiracy with his enemies and the enemies of his country—both adventurers and of doubtful reputation,) Minister Washburn committed a grave act of imprudence, which resulted in most, if not all, of the complications attending his residence in Paraguay.

4. That Admirals Godon and Davis, in command of the South Atlantic squadron, have committed no act to subject them to the censure of this government or the investigation of a court-martial, said officers having, to the best of their judgment and understanding, complied with the instructions of the Navy Department, and received its approval.

5. That no legislation is required on the part of Congress, growing out of the facts stated in this record and the correspondence now on file in the State and Navy Departments.

6. That this committee be discharged from the further consideration of the subject.

TESTIMONY.

Statement of the Honorable Charles A. Washburn, late United States minister to Paraguay.

WASHINGTON, D. C., March 30, 1869.

By the CHAIRMAN:

Question. State whether you have read the memorial and statement of Messrs. Bliss and Masterman.—Answer. Yes.

Q. Have the kindness to give to the committee any information you have on the subject embraced in that memorial.—A. I know very little about it, because the most of the facts set out in the memorial occurred after I left Paraguay. I can corroborate that part of their statement relating to what occurred before I left the country. When I returned to Paraguay, about two and a half years ago, Mr. Masterman was a prisoner for some trivial offense and had been in prison for a long time. Mrs. Washburn being unwell, and there being no physician there on whom I could rely, I obtained his liberation from custody; and when he came out of prison, where he had been for eleven months in solitary confinement, I took him to live at my house; that was in October, 1867. He continued to live in my house and to attend as a physician in my family. He kept very close to the house, being afraid of being arrested again for something. Everybody there was afraid. There were people there who would have given all they had in the world for permission to stay in my house, believing that they would be safe there; whereas anywhere else they were liable to be arrested and carried off to prison. On the 21st of February, 1868, we heard that the iron-clads of the Brazilian fleet had passed Humaitá, and an order came that the town of Asuncion was to be vacated. The then foreign minister, Berges, who has since been shot as one of my fellow-conspirators, sent word to me that night to advise me that the order would be issued for the evacuation of the town. He wished to advise me beforehand so that I might get comfortable quarters outside. I told him that I would not leave; that the Paraguayan government could not order me to vacate the legation of the United States, and that I would stay. He said he felt sorry at my determination. But I said I would stay and keep my flag up. That night a great many persons came to inquire whether I was going to leave. I told them that I was not; that I should stay in the town. Many of them asked me if I would allow them to come and stay at my house. I told them I could not do that, because I had not room enough for everybody; but that I would take their valuables and give them as much care as my own. A good many persons brought their trunks and iron safes and articles of value and left them at my house. On the 23d or 24th the iron-clads came up; the town was then vacated. There were about 25 English people who came the next day after the order of evacuation and asked me if they could occupy the rear rooms of my premises. I told them I had no objection, but that I thought they had better get the consent of the government or it might be worse for them. They went down and saw the vice-president and the foreign minister, and represented that they wanted to stay and that I told them they could have some rooms in my house. The reply was that there was no objection in that case. Afterwards two or three others came to my house, including Dr. Carreras, who formerly had been head of the government of Montevideo, and who had come as a fugitive to assist Lopez two years before, but who had not been treated with any consideration and was not allowed to leave the country. Mr. Rodriguez, the former secretary of the Uruguay legation, came at the same time. He had been detained in the country after the legation was broken up. These two men came to my house. They said they were afraid to fall into the hands of the Brazilians, as they were known to be bitter enemies to Brazil. I told them they might stay; and they lived with me as my guests. They only wanted protection from the allies. They anticipated danger in case the town were taken, as we supposed would be the case within three or four days. They remained several months at my house. The iron-clads came up on the 24th. There was a little fort having but one large gun and three or four field-pieces just below the town. Two of the iron-clads came up to this fort and began to fire at it, right in view from my front door and but a short distance off. They fired perhaps 35 or 40 shots and the fort replied with less than half the number, when the iron-clads turned tail and went away; and we heard no more of them for a long time. We thought that the thing was pretty much played out, but we could not understand why the allies did not return and do something. We

fully realized that Lopez must fall, and that the sooner he was overcome the better it would be. We felt that the people were being fast exterminated, and that if something were not soon done there would be no Paraguayan people left. Our situation was very disagreeable, and we therefore desired that the thing might end as soon as possible. At the time of the evacuation I told Mr. Bliss that I supposed there would be a good deal to be done of an official character, and I wanted him to come and live in the legation. I sent to the foreign minister a list of the persons who were in the legation, and received an answer to my communication. A good deal of correspondence took place. The names of Mr. Bliss and Mr. Masterman were both given in as belonging to the American legation. The war continued. There was nothing done to change the situation. Very few people were allowed to come into the town. Some of those who left property at my house came and got it. This condition of affairs was very tedious. We did not know what was going on below, and we could get scarcely any communication whatever. About the 5th of April I thought I must make an effort to get through some correspondence, and I wrote some dispatches and private letters. I wrote to the Secretary of State telling him that our situation was very disagreeable and dangerous; that we did not know what was going on below, but that we knew that the situation was very bad where we were and did not know whether we could ever get away. I wrote to some of my personal friends in stronger terms than I wanted to state the facts in an official letter, that if we did not get out of Paraguay pretty soon we would never get out alive. I afterwards learned that those dispatches did not get through. They were stopped by Lopez.

Shortly afterwards I received a letter from Commander Kirkland, of the steamer *Wasp*, that she had arrived at Curupaiti, below the Brazilian squadron, and had come up to be at my disposal to take me away if I wanted to go. The place where the *Wasp* was lying was 200 miles below Asuncion, where I was living. I wrote back to Captain Kirkland that I could not get aboard his steamer with my family unless he came higher up the river; that to go down by land in Mrs. Washburn's state of health was out of the question entirely, and besides that the allies had no right to stop him from coming up with his gunboat. I said that four years before, when the war was beginning, the Brazilian minister was detained at Paraguay, and that I, as the senior member of the diplomatic body, had taken up the case with the Paraguayan government and had insisted that he should be allowed to leave the country by steamer; that I succeeded on that occasion, and that I had a right to expect from the Brazilians that as much should be done for me, the American minister, as I had demanded for the Brazilian envoy. Captain Kirkland sent word back that the allies still refused to allow the *Wasp* to come up; that he had had quite an angry controversy with the commander-in-chief of the allies, and that he could do nothing, having received no orders from the admiral commanding on the station since he left Montevideo, and was going back. There we were left. The *Wasp* went back. Then we began to learn that everybody who was not in the army was being arrested. Nearly all the foreigners and all the better class of Paraguayans who had been employed in certain civil services about the new capital, were being arrested and carried off. We did not know what it meant. It was a matter which we talked over a good deal. We suspected that something had been discovered, some plot or other, but we did not imagine that any men would be such fools as to engage in a conspiracy there, because the system of espionage was so thorough that no two men dared to whisper to each other a word against Lopez. If they did it would be a race between them to see who would first report the other. It was a mystery about which we were all in the dark. In that state of affairs we were surprised one day by the appearance of Leite Pereira, the Portuguese acting consul and his wife. He said that his exequatur had been revoked, that he feared he would be arrested, and had fled to my house as a place of refuge. I knew that if I received him it would greatly enrage Lopez, and yet I could not think of sending him into the streets. I told him that I would consult with the others, Carreras, Rodriguez, Bliss, and others as to what I ought to do. I did so, and it was the general opinion that I had better allow him to remain. He did remain, saying that he would leave at any time when it was intimated to him that he had better do so. The only offense that he had been guilty of, as far as I knew, was that he had given all his own money, and all the money he could borrow, to relieve the necessities of the Brazilian prisoners of war. He spent one or two hundred thousand dollars in that way, and Lopez had the suspicion that he had some understanding with the Brazilian government. About a week or a fortnight after that I got a letter from the Paraguayan government inquiring whether the Portuguese acting consul was at my house. I replied that he was, that he came there as my guest, with his wife as a companion for Mrs. Washburn. Soon after I received an order to deliver him up to a policeman, who would be sent to receive him. I sent word back that I should not deliver anybody up; that if I found any person in my legation who had no right to be there, or who had committed any specific crime, I could only advise him to leave the legation, but that as to delivering him up to a policeman I would not do it. About a fortnight after that I got an enormously long letter reciting a great number of accusations and charges, and demanding that everybody not belonging to the legation should

be sent out of it. I called the Englishmen up and told them what sort of a letter I had received, and I said that they could go or not, just as they chose, that I should not turn them out, but that I apprehended that Lopez would get them one way or another, and that if he had to get them by force he would make short work of them. Leite Pereira, the Portuguese consul, said he would go. He seemed to think that his presence would rather hasten difficulties on the others, and he said that he would go and meet the accusation against him. Carreras and Rodriguez thought that nothing was intended against them. They were known to be enemies of Brazil and had sought the legation as a refuge against the allies. They requested me to write a letter stating that they would leave if it were insisted upon, but that they preferred to remain, and that I preferred to have them. I did so, and got a reply the next day stating that they were accused of grave offenses, and that they must appear before the tribunals. I told them then that they need not go unless they chose to do so; that if they remained I should give them all the protection I could, unless they were taken by force, or unless some specific charge was made against them. Up to that time no specific charge of any offense had been made against any one. In my correspondence with the Paraguayan government I stated that I was under no obligation to deliver anybody until some specific offense was charged against them; that none of those men had been charged with any particular crime, and that they had a right to be there. They were satisfied, however, that if they did not go, specific charges would be made, or else that they would be taken by force. I thought so too.

They said also that if I would agree to remain in the country till the end of the war they would take their chances and stay; but I told them I could not do that, because I was expecting every day to be recalled, and that if a new minister came he would probably live in some other part of the country, and they would be left to the tender mercies of Lopez. Finally they determined that the best way for them would be to go out and leave the legation. They started off about mid-day of the 13th July and were immediately arrested. The same day that they left I received another note from Benitez, the same man with whom I had been carrying on the correspondence. His correspondence was very jesuitical, so much so that I could not but think that he was a great scamp; but as he was afterwards shot with the rest for being a conspirator with me I forgave him. This letter told me that Bliss and Masterman were required to be given up as being equally guilty with the others. I wrote in answer that those men belonged to my legation and that I would not deliver them up. We had a great deal of correspondence about that matter. Benitez pretended that they did not belong to the legation and I insisted that they did, and that I should stand by them. I said that if the government was certain that they did not belong to the legation they had a right to take them in the way that the international law prescribed, but that they must take the responsibility of violating the legation. They remained until I left, but it was a terrible time. There was a gloom that could be felt in the atmosphere. The Paraguayans whom I met in the street did not dare to look at me, and it was the same with some few Englishmen and others who were at work in the arsenal. If I met them in the street they were afraid to speak to me. It was a most terrible state of affairs. All of us foresaw pretty well that Lopez was intending to kill us all if things continued so much longer. The correspondence was getting worse and worse every day. We could see that he was closing his meshes around us, for of those he had made prisoners he had published what purported to be their declarations, made by them while prisoners. We knew there was not a word of truth in those declarations, not one word so far as they implicated any one in my house in a conspiracy. They purported to give accounts of correspondence which I had been having with Marshal Caxias, the Brazilian commander-in-chief, and with other enemies of the republic, and of conversations that I had had with the conspirators inside of Paraguay. As I knew that these people when they left my house absolutely did not know of any such thing, I was convinced they had never made any such declarations, or if they had, that they had made them under torture. There was not a word of truth in them. In the meanwhile I had received from Benitez a request for a package of papers which Berges, the former foreign minister, (the same who came to this country as the commissioner from Paraguay in 1859, and who had been arrested, taken to headquarters and shot,) had left with me. The letter was in substantially these words: "You will please deliver to the bearer of this a certain package which was delivered to you by the ex-Minister José Berges, the day after his return from the camp to his house. Those papers are of very great importance to the government." I replied that I had never had any such papers, had never seen them, and that I had not seen Berges for a week or fortnight after he got back from headquarters. I had heard he was very sick, and called as a matter of courtesy to see him. I found him partly paralyzed, and expressed some words of sympathy and asked him if I could do anything to serve him; he said no, and I went my way; I called again a few days afterwards and had a few words with him of the same purport, and that was all I had seen or him; he had never given me a paper nor said a word about any conspiracy or about anything that was not perfectly loyal and devoted to the government of his excellency,

Marshal Lopez. I stated this in my letter. I saw, when I got this demand for those papers which had no existence, that the clouds were gathering about me as thick as about anybody else, and that unless the gunboat came very soon Lopez would find some plausible pretext for arresting me.

We were expecting every day for two months that the legation would be entered, and that Bliss and Masterman would be taken away by force. In fact, they had their carpetbags ready for two months, to take up at a moment's warning. I was expecting that my house would be searched; I had some papers which I did not want Lopez to see, because I had been taking notes in Paraguay, with the idea of writing a book some time, and I knew that if he got hold of those papers they would never leave Paraguay, nor I either. I was anxious about those papers and took great pains so that he could not find them. I afterwards got them away. They were the only things in my house that I was not perfectly willing he should examine. I got notice about the 1st of September that the Wasp had arrived and was down the river, opposite Lopez's headquarters. In the meanwhile Caminos, the new foreign minister, after the arrest of both Berges and Benitez sent me a letter of 50 closely written pages, in which he gave the declarations of all the principal men, Berges, the two brothers of Lopez, his chief justice, Dr. Carreras, Rodriguez, and others, in which they made out a quantity of charges perfectly astounding—declarations which it was said they had freely confessed before the solemn tribunals of the country concerning the part I had taken in the conspiracy, and the part which they had taken. In the meanwhile I had asked for my passports several times, but could not get them. I was convinced that Lopez did not intend that I should get out of the country. When this long letter came it concluded by saying that the Wasp had arrived to take me away; that the government had been informed of my complicity with the conspirators, and with the allies, for a long time; and that it would have been justified in withholding any communication or correspondence with me; but that for the great regard which he had for the great republic of the United States, he would send me my passports, and would provide me with a steamer to take me down the river where the Wasp was lying whenever I required it. The new foreign minister, Caminos, wanted a list of the persons who were to go. I had got a letter before that requiring a list of all persons for whom I wanted passports, and I sent it. He sent me the passports next day, omitting the names of Bliss and Masterman. All the others whose names I had given him were included in the passports. But they did not get the steamer ready for me for four or five days more. I could see that Lopez was still hesitating whether to let me go or not. I got a letter from Caminos, the new foreign minister, requesting me to stay till the Paraguayans who had left their property in my hands had time to take it away.

I told him I should not wait a moment for that purpose, that I should leave the property there in charge of some responsible person, and that the owners could get it just as well after I had gone as while I was there. A number of the foreigners who had sent property to my house sent for it and got it and took it away. We had about two notes a day passing between us, I all the time insisting that I was ready and wanting to go, and they making excuses for my detention by this, that, and the other pretext. At last, on the 10th of September, I was told that the little steamer would be ready that morning, and that I could go on board. Four days before that I had sent nearly all my baggage on board, all except some light trunks; it was on board the steamer for that length of time. The fact that I found it had not been opened, convinced me that Lopez himself did not believe a word of that conspiracy, because many of those deponents had testified to my having received enormous sums of money, which, if it were true, must have been with that baggage; but as he did not, so far as I could discover, open it or take any means to ascertain whether any money was there, I was satisfied he did not believe a word of those stories. At last we got ready to go. Bliss, Masterman, and myself talked it over as to what it was best to do—whether it was best to make a protest that I should refuse to go without them, or whether I should march out of the legation with the American flag flying covering all of us. But we knew that anything that we might do of that kind would have no good effect; that it would only enrage Lopez, and that a very little thing would induce him to stop all of us. Our united opinion was that if I could get away and give the alarm to our squadron as to their situation, it would be the best thing for me to do. They thought that probably before they would be killed, something would come to their relief. I started my family ahead of us so that they could not see anything of what might transpire. The French and Italian consuls went down to the steamer with us. We had got to the front door of my house, and just as we stepped off the corridor into the street, there were about 50 soldiers, without any officers that I could see, and not one of whom, I suppose, could speak Spanish, who rushed in and caught Bliss and Masterman, and a negro servant whom Carreras had left there, and took them right off to prison. I went down to the little steamer and went aboard, and soon afterwards she got up steam and went down to where the Wasp was lying, about 20 miles down the river. When on board the Wasp, Captain Kirkland told me of the difficulties he had had in getting there. He had been sent up the first time by Admiral Davis, with orders to

proceed to the seat of war and communicate with me and take me away, if I wished to go. The seat of war was 200 miles from where I was, and his vessel might as well have been on the coast of Africa as at Curupaiti, so far as I was concerned. He could not go further up the river and so he returned. When he started the second time he was informed that the Brazilian government had promised to withdraw all obstructions to the Wasp going up. General Webb had made a fierce warfare upon the Brazilian government, and had threatened to ask for his passports and to break up his legation unless the Wasp were allowed to go to my relief. Captain Kirkland had nothing to go upon except his information that the obstructions would be withdrawn, and he was instructed by Admiral Davis to go up the river again, and to carry out his former instructions which he had had, and which, as he said to me, were no instructions at all; the whole responsibility being on himself. Caxias attempted to stop him again, but Kirkland sent word that he was going through. He was not stopped but came up to Lopez's headquarters. He then told me of the interview which he had with Lopez. He told Lopez what he had come for. Lopez said that his relations with me were very bad; that I was in collusion with the conspirators and with the Brazilians. Kirkland laughed at him, and said that Caxias hated me worse than anybody else, that he had done everything to injure me, and had tried to stop him from coming up to take me away; that the Brazilians and allies generally looked upon me with more aversion than upon anybody else; and that the idea that I was acting with them was perfectly absurd. Lopez said that he had no doubt of my collusion with the allies, as he had the proofs of it. They had a good deal of conversation. Kirkland said to Lopez, as bravado to intimidate Lopez, as he told me, "You had better not touch that man; he has got some friends; he has got a brother who is a great friend of General Grant's. General Grant is going to be the next President, and E. B. Washburne will be Secretary of State. If anything happens to Mr. Washburn, the United States government will hunt you all through Europe, and have your head certainly. Besides that, there are six monitors already on the coast of Brazil, coming down to fight Brazil for having stopped the Wasp before, and if you touch him those monitors instead of fighting Brazil will turn against you and knock Asuncion about your ears before you know it." Lopez finally said he would let me go, and Captain Kirkland gave me the idea at that time that he had bullied Lopez, and had frightened him. Several days passed. I think he was still hesitating whether he would keep me or not. At any rate I did not get away and get on board the Wasp for several days. After I was on board, Captain Kirkland went again to see Lopez and had a good deal of talk with him. I do not know all that transpired, but Kirkland, when he came back, seemed still to be of the same opinion about Lopez. He said he was the biggest fool he had ever seen in the world; that he saw right through him, and that when he talked to him in that kind of a way, he could see that he wanted to order his arrest and to shoot him. He said that he went to visit him prepared, if any demonstration was made to arrest him, to defend himself. That was his feeling. At least that is what he stated to me 20 times on the voyage down the river, as to what took place between him and Lopez. But afterwards when he got to Buenos Ayres, and found that General Webb and Admiral Davis had quarreled, and that the current was very strong against me, he modified his views very much in a letter to Admiral Davis, and said that he did not understand there was any threat from Lopez to keep me, and that he was treated with great courtesy. Well, he was treated with courtesy. And I was told quite a number of bales of Paraguayan yerba were brought aboard and were afterwards advertised for sale in Montevideo as Paraguayan yerba, brought by the United States steamer Wasp.

By Mr. SWANN:

Q. Masterman and Bliss were the only persons of your legation that were arrested?—

A. Yes; they were arrested as we left the house. I wrote a letter to Lopez from on board the Wasp, telling him that there was not a word of truth in the declarations which purported to have been made by Carreras and his two brothers and the others, and that he knew there was not, and I told him that if they made those statements they were made under torture, and that the only way he had to prevent them from denying the statements afterwards was to kill them, and not only kill them but kill the persons before whom the statements were made. I protested, too, against the seizing of Bliss and Masterman, as being as much a violation of my rights as minister as though the soldiers had entered my house and took them away by force, and I confirmed the statement of Captain Kirkland to him, that if he had detained me and kept me a prisoner, the United States would have hunted him through the world. I read the letter to Captain Kirkland, and he made no objection to it. The strange conduct of the navy has been a mystery to me. The newspapers have represented that they found that Bliss and Masterman were well treated by Lopez, that they were in good health, and that Lopez was a very much abused man and much maligned by me. But as he has since then killed nearly all the foreigners that were in the country, and killed his brothers and sisters, and very likely his mother and his brothers-in-law, and as the few who have escaped have confirmed everything I said and a hundred times more, I do not know what our naval friends will say now.

Q. Bliss and Masterman were thrown into prison immediately, I suppose?—A. Yes; they were taken, so they say, to prison that day. They were stripped immediately and searched, and then were taken on muleback out of the city, laden with heavy fetters.

By the CHAIRMAN:

Q. State how they left the legation.—A. We started together; they were with me, right by my side.

Q. For what purpose did they start?—A. They were going to leave the country with me, unless they were arrested. If they were taken at all I wanted them to be taken by force, and not to deliver themselves up. They state in their memorial how they were treated.

Q. How did they leave you?—A. I occupied a large house with a long piazza in front; we went out together; I was a little in front; the two consuls, French and Italian, were one on each side of me, and Mr. Bliss and Mr. Masterman were directly in my rear. Just as they stepped off the piazza this crowd of Indian soldiers rushed in and seized them by force and hustled them off; there were probably about 50 soldiers.

Q. Did you ask passports for those men?—A. I did, and was refused them.

By Mr. JUDD:

Q. Who is Bliss?—A. He is the son of the Rev. Asher Bliss, of South Valley, Cattaraugus county, New York.

Q. How long had he been in Paraguay?—A. He had been there three or four years.

Q. In any public capacity?—A. He had begun getting up a history of Paraguay in Spanish. He is a very fine Spanish scholar, and had got a good deal of material for his history, and had received some pay from the government for getting it up.

By Mr. WOOD:

Q. What, in your judgment, was the cause of the arrest of those two men?—A. That is a mystery. Bliss thinks that Lopez believed there was a conspiracy, but I do not think he believed so. There never was anything of the kind. He got insane and savage, and seemed determined to destroy everybody. He told me two years before, when I saw him at his headquarters, that if he must go under, at least he was not going to leave anybody or anything behind him; and he is carrying out that threat now. He was determined to kill off everybody in the country.

Q. Was there no motive for that?—A. I do not know what it was.

By Mr. SWANN:

Q. Did Bliss mix up with the politics of the country?—A. No, sir.

By Mr. WOOD:

Q. Had he offended Lopez in any way?—A. No; nobody had given cause of offense to Lopez that I know of. Lopez was offended with me because I staid in the capital after he had ordered it to be evacuated. The Italian and French and Portuguese consuls came to my house late at night, when the order of evacuation was issued, and asked me what I was going to do. I told them I should stand my ground; that I would not go out of the town; and that the United States legation was, for the time, United States territory. The Portuguese consul was for doing the same thing; and the Frenchman said no, he did not think it would be safe; the iron-clads would be there, and would bombard the town and knock it all to pieces. I told him I was not afraid of my house being bombarded, and that I would stay any way.

By Mr. SWANN:

Q. What was the Frenchman's rank? Was he consul?—A. No; he was acting consul. He was only sent by the minister at Buenos Ayres to relieve the former consul. The Italian was a regular consul.

By Mr. ORTH:

Q. What other foreign ministers were there at the time?—A. There were no others but myself. The Portuguese consul wished to remain, but the next morning he had an imperative order from the government that he must get out of the town that day or that it would be worse for him. The other two consuls decided to go of their own accord.

By Mr. WOOD:

Q. How long has Lopez governed Paraguay?—A. He was elected in October, 1862. His father died in August, 1862, I think. He elected himself. He was the minister of war under his father, and had command of the army, and he just took possession when the old man died. The government at Asuncion has to each district a chief and a judge, and they constituted the government of that district, and sent to the congress in Asuncion the men that Lopez wished; but even then he was afraid there was a conspiracy, and there were a great many people arrested. It was reported that his brother, who has since been shot, was engaged in the conspiracy, and that Padre Maiz, who has been

a sort of head inquisitor lately, was getting up a conspiracy against Lopez. At any rate there were very strong precautions taken, and there was a great military demonstration made. The congress was held in the Cabildo, or government house. It was surrounded by soldiers. One of the richest men in the country ventured to remark in the congress that Francisco Solano Lopez was not the proper person to be elected; that the constitution of the country declared that the government should not be the heritage of any one family, and that therefore the son of the deceased president should not succeed him. That objection was negatived, and everybody voted for Francisco Solano Lopez, and he was elected. This gentleman was immediately put in prison, and was never heard of afterwards.

By Mr. SWANN:

Q. Were those conspirators tried by civil or military tribunal?—A. By military tribunal. There is no law there, and nothing whatever but the will of Lopez.

By Mr. JUDD:

Q. Mr. Bliss was out there as a literary man?—A. Yes; he was a great scholar.

Q. And was not mixing up with their political affairs?—A. No, sir; nobody was mixing up with their political affairs. Nobody there dared say a word but "*Viva el grand Lopez!*" His little paper is filled up with nothing but flourishing adulations of the great Marshal Lopez. All the time before the evacuation they were holding public meetings—every week or two—to make presents to Lopez. Even the women and children had to give away everything they could scrape, to show their appreciation and gratitude to him; there was no resisting it. Nobody dared to hold back or to refuse to contribute. They gave him a great big album with gold covers a quarter of an inch thick—those people who could not get enough to eat themselves. That was going on all the time. I lived there so long that I got the confidence of quite a number of people, Paraguayans. They thought I was a safe person to talk to. They even told me that there was the most universal hypocrisy there; that there was not a man, woman, or child who would not be delighted to know that Lopez was 40 feet under ground. They had to go to those meetings, and to make speeches, and to offer their lives, fortunes, and everything else; even the women offered to take up arms under his imported mistress, who generally took the lead among the women—I mean Mrs. Lynch.

By Mr. WOOD:

Q. I believe Lopez has been put down?—A. He has fled to the mountains. The legation that succeeded me has gone with him.

By Mr. SWANN:

Q. Is Lopez a young man?—A. He is 45 years of age.

By Mr. ORTH:

Q. Where is the necessity of having any American minister at Paraguay?—A. I do not know that there is any more reason for having a minister there than there is at three or four other South American governments. If the government there was different, there is a field for a great and profitable commerce.

By the CHAIRMAN:

Q. Do you know anything about the treatment of Masterman and Bliss?—A. Nothing but their own statements. I do not know what explanation the Paraguayan government gave to my successor, General McMahon, but it seemed to satisfy him. And Bliss and Masterman, as they say, were received as criminals and treated as criminals while they were on board the Wasp and on board the Guerriere. I had advised General McMahon verbally and by letter of the situation of affairs in Paraguay, but he acted on the statement of Lopez, in preference to mine.

By Mr. WOOD:

Q. What course has the English government taken with reference to Mr. Masterman, who is an Englishman?—A. It has not done anything. I saw the English minister in Buenos Ayres, and he said that, as Masterman was connected with the United States legation, it would devolve on the United States government to rescue him, rather than on the English government.

Q. You recognized Bliss and Masterman as being attached to your legation?—A. Certainly I did. Masterman had been in my house eight or ten months, or longer. He had lived in my family, and nothing had occurred to change our relations except that the legation moved away, and he was bound to move with it.

By Mr. WILLARD:

Q. Do you know whether our naval officers who held Mr. Bliss as a prisoner had any information in reference to his participation in Paraguayan affairs except what they got from Lopez?—A. I had told them that there was no conspiracy, and there was none. I wrote a private letter to General McMahon, and said that, in my opinion, he ought not to go near Lopez.

By Mr. WOOD:

Q. Was there any other charge against them except that of conspiracy?—A. None whatever.

By Mr. JUDD:

Q. Was it made known to Admiral Davis, or to Captain Kirkland, or to your successor, that those gentlemen had been connected with your legation, and were forcibly taken from it before they were received as prisoners?—A. Certainly. All my correspondence on the subject was published in the papers in Buenos Ayres, in three languages, and I detailed the whole affair to them verbally also. Bliss and Masterman were received on board the Wasp, as they state, at midnight. Captain Kirkland came out on deck with the master-at-arms, and said: "Take those men forward, and put a guard over them, and see that they don't loaf about." Masterman made some objection to being treated in that way, but Kirkland replied very sharply and sent them forward. There they were covered with vermin and had nothing to sleep upon that night except on the deck of the vessel. Neither the admiral nor Captain Kirkland took any pains to make them more comfortable.

Q. I wish to have the fact distinctly stated whether, before those naval gentlemen treated Bliss and Masterman in that way, they were advised by you of the relations of those men to your legation?—A. Certainly they were.

By Mr. AMBLER:

Q. I understand you to say that you gave Captain Kirkland a full history of the transaction.—A. Certainly. And in the letter which I sent back to Lopez, and which Captain Kirkland read, I protested against his having taken those two members of my legation.

By Mr. WILLARD:

Q. Did you communicate to Captain Kirkland the fact that you told Bliss and Masterman that they might make any confession they chose.—A. I told them that if they could save their lives they might make any confession they pleased.

Q. Did you communicate that fact to Captain Kirkland?—A. I do not know that I did, but I told him that the letters received from Bliss, one to him and one to me, after I was on board the Wasp, had been forced from him, probably by torture, and I think I told him that I had given both him and Masterman full liberty to say anything about or against me that could save their lives. I said to Bliss and Masterman, "You may say anything about me that you think will help your case. You may say you saw me steal sheep or commit burglary, if you think you can thereby prolong your lives. Nobody would believe a word of it, in Paraguay or out of Paraguay, and it can do me no harm."

By Mr. SHELDON:

Q. Did you have any talk with Captain Kirkland, in which you suggested that those declarations of Bliss and Masterman had been forced from them by torture, and were entirely untrue?—A. Only in regard to those letters received on board the Wasp. The later declarations had not then been made; at least we knew nothing of them. It was shown in my correspondence, which is very long, and which was read by everybody there, that all these pretended depositions were false, and had been made, if at all, under torture. In my letter to the English minister I stated that there was no conspiracy, and that these men belonged to my legation.

By Mr. AMBLER:

Q. This publication in the newspapers to which you refer was in Buenos Ayres?—A. Yes, sir.

Q. Was it before the Wasp returned to bring away Bliss and Masterman?—A. Yes, sir.

Q. Have you copies of that publication?—A. Yes.

By the CHAIRMAN:

Q. What is the article "yerba" that you speak of.—A. It is Paraguayan tea. Bliss and Masterman stated that while they were undergoing examination before the inquisition, of which Captain Kirkland and Captain Ramsey seemed to be members, they noticed that presents were made to those officers at that time.

Q. You know nothing yourself of what you call the inquisition?—A. No; of course I was not present. I will get the several papers and documents to which I have referred and present them to the committee.

WASHINGTON, D. C., April 1, 1869.

The Hon. Charles A. Washburn appeared before the committee and continued his statement as follows:

I was speaking the other day of Captain Kirkland and of his conduct. I stated that his representations to me on board the Wasp were very contradictory to the statements which he made afterwards. When I first heard from him on his going up the river, he

sent me a letter complaining very much of the treatment he had received from President Lopez. He said he had arrived there and been treated with great discourtesy by Lopez. He said he could not learn where Lopez was or where I was, and that he was waiting with great anxiety. I sent him a reply that I was at Asuncion, and was prepared to embark immediately. He had asked me where I wished to embark, and I told him I wished to embark at Asuncion, but it was some time afterwards before I was able to get away, as I stated the other day. Then when I got on board he represented to me what his interviews with Lopez had been and what Lopez had said to him. He represented that he had bullied Lopez, that he had threatened him with the whole power of the United States if he ventured to lay hands upon me, and that he stated things which he did not believe and which I did not believe, many of them false, purposely to bully Lopez. He told him, for instance, that there were six iron-clads on the coast and that my brother Ellihu was to be Secretary of State, which neither he nor I believed at the time. But he supposed that such talk would intimidate Lopez and induce him not to proceed to extremes. On these representations of Captain Kirkland's, I wrote to Admiral Davis, commending his conduct in the highest terms, and stating that I believed that by his manner of defiant attitude and by the fact that he talked Spanish well, he had been able to frighten Lopez to give me up, whereas a different kind of a man might have been frightened away himself and left me there. I approved Captain Kirkland's course then, and I believe I did so justly. He repeated this conversation which he had had with Lopez more than twenty times to me going down the river. He said that Lopez was the biggest fool he ever saw in his life, that he could see right through him, that he knew how to take him and that he took him on his weak side. I believe that he did me a good service and I was willing to testify to it, as I did in very strong terms. When he came down to the mouth of the river he learned that there was a bitter quarrel in Rio between General Webb and Admiral Davis. General Webb had complained of the tardiness of the Admiral in going to the rescue of Bliss and Masterman. General Webb had also quarreled with the Brazilian government on my account. If the Wasp had not got there for two weeks longer I presume I would not have left Paraguay alive. I owe everything to General Webb for the energy and promptness with which he acted, but the sentiment of the squadron appears to have been such that Captain Kirkland wrote in very different terms to Admiral Davis for some reason or other. I do not imagine that he was influenced by the presents which he had received from Lopez. I do not suppose so. I spoke of them the other day; some of them consisted of bales of Paraguayan tea, which is a valuable article. But I do not think he was influenced by them; else, why should he have spoken in such bitter terms of Lopez while we were going down the river? But he wrote to Admiral Davis (which letter was published in the papers through the country) representing that Lopez had treated him with great courtesy and had expressed his wish to cultivate the most friendly relations with the United States, and he gave the inference that Bliss and Masterman were in no danger. And yet, at the very time that Kirkland was there in the company of Lopez, these two men were under torture. Masterman was nearly killed with torture at the same time that Kirkland was in the company of Lopez and Lopez was professing great friendship for the United States. He wrote in a private letter to Admiral Davis, which is also published in this correspondence, that I had misrepresented the state of affairs there somewhat, that he did not understand Lopez as threatening to keep me at all, and that the construction which I had put on his words was different from his idea. This letter Admiral Davis has sent on to justify his course in not being more prompt, as he had the evidence of Captain Kirkland that these men were in no danger and that there was no necessity for prompt action. When Bliss and Masterman came down on the Wasp they were transferred to the flag-ship *Guerriere*. For the first eighteen hours that they were on board, as they told me, they were at liberty and were allowed to talk with the officers. They had heard that a steamer was to leave the next day for the United States. Mr. Bliss wrote a letter to his parents and sent it on, in which he stated that he was well treated on board the *Guerriere*; and I see from the New York papers a statement which appears to be made out in the interest of Admiral Davis, that I had written letters highly complimentary to Admiral Davis and to Captain Kirkland. I had done so especially in reference to Captain Kirkland. The New York Tribune also states that Mr. Bliss in a letter to his parents says, "I am under no restraint on board this magnificent vessel, were I am treated with every attention by the officers." That was true for ten or twelve hours after he came on board, but the next morning an official letter was read directing that he and Masterman should be held under surveillance by a non-commissioned officer, and that they were to hold no communication with the shore. I saw Mr. Masterman in New York the day he sailed for England, and I spoke to him in reference to this publication of Bliss's letter, where he spoke of being under no restraint. He thought it over and he wrote me a letter which I wish to have inserted in this testimony. It is as follows:

"NEW YORK, *March 11, 1869*

"DEAR SIR: My attention has been called to a paragraph in to-day's Tribune, in which a portion of a letter is quoted from Mr. Bliss, in which he says: 'I am under no

restraint on this magnificent vessel, where I am treated with every attention by the officers.' Now this apparently clashes with my statement, that we were treated as prisoners on board that vessel—the explanation, however, is simple enough. We went on board the *Guerriere* on the morning of the 18th of December, 1868, and for that day were left at perfect liberty, and several officers spoke to us in a friendly way, but the *next morning* the captain of marines read an order to us in these terms, as far as I can recall them. 'Messrs. Bliss and Masterman will remain under the surveillance of a non-commissioned officer, &c., and will not be permitted to communicate with the shore in any way; should they attempt to do so, he will immediately arrest them.' The consequence was, not an officer (except Dr. Duval) would speak to us, and we were regarded as prisoners by all on board, and I certainly considered myself one. The letter in question, of Mr. Bliss, was written on the 18th or early on the morning of the 19th, when we were at perfect liberty on board the flag-ship.

"I am ever, dear sir, very faithfully yours,

"G. F. MASTERMAN.

"Hon. C. A. WASHBURN."

(Extract from the New York Tribune.)

"In accordance with the desire expressed in this letter, two officers were sent on shore to witness the verification of the declarations of Messrs. Bliss and Masterman, and on the 10th those two gentlemen were received on board the *Wasp*. A sealed package addressed to Secretary Seward was received at the same time. It will be remembered (Admiral Davis makes no allusion to the fact) that the declarations made by Bliss and Masterman in the presence of our naval officers implicated themselves and Mr. Washburn in the alleged conspiracy against Lopez. After their release they retracted all the statements of these declarations, declaring that they had been extorted by physical torture and threats of death. It does not appear from this correspondence that the two gentlemen were 'received as prisoners,' as they themselves state, and it may be as well to remind our readers that in a private letter written by Porter C. Bliss to his parents, and dated on board the United States flag-ship *Guerriere* off Montevideo, December 19, published in the Tribune February 1, Mr. Bliss says: 'I am under no restraint on board this magnificent vessel, where I am treated with every attention by the officers.'"

Now, in reference to the position which these men held in my legation at Asuncion: Here is a letter which I wrote to Benitez on that matter, in which I argue the case, and which I think may also go in with my testimony. It sets forth all the facts as to whether they were members of the legation or not.

(The letter is annexed to this testimony, marked Exhibit A.)

Here is a letter which I wrote to President Lopez after I got on board the *Wasp*, wherein I denounced him as a common enemy for having taken by forcible means two members of my legation, also for having entered the houses of foreigners and stolen their money, on the pretext that his treasury had been robbed.

(The letter is annexed to this testimony, marked Exhibit B.)

I read that letter to Captain Kirkland before I sent it, and he made no objection to it. How he could have written as he did afterwards, I do not pretend to explain. Before I had sent this letter I received letters from Mr. Bliss, written after he had fallen into Lopez's hands, and written by dictation. He was obliged to write them over two or three times, with a man prodding him. He states that, having got out of my power, and being at full liberty again, he can tell the truth about me. I had two other letters of his which he had written to send by me to his friends before I left Asuncion. One of them was addressed to the Rev. Mr. Goodfellow, of Buenos Ayres, and the other to a gentleman in Rio, both friends of his, in which letters he expressed his highest appreciation of my services and of my efforts to save him. His other letter will show, of course, that it was written under compulsion.

(The letters referred to are annexed to this testimony, marked Exhibits C, D, and E.)

Then here is the letter which I wrote to Mr. Stuart, the English minister in Buenos Ayres, in which is given a more succinct and better account of the state of affairs in Paraguay than I was able to give in my testimony the other day, which I also desire to be made part of my testimony. It was published in part with the other documents of the State Department, but only a portion of it was published. That part of it in which I reflect severely on Lopez is left out.

(The letter is annexed to this testimony, marked Exhibit F.)

I also submit a letter received by me since then from Mr. R. von Fischer-Treunfeld, Lopez's constructor of telegraphs. He was at liberty when I left, and was soon afterwards arrested, taken to headquarters, and put in the stocks. By a wonderful chance he escaped, although Lopez had sent orders to have him killed. In fact, he had been ordered twice to be shot, but he escaped and wrote me this letter, giving me a full ac-

count of events which had happened under his own observation, in which he testifies of me in the kindest terms, and says he has understood that I have got into trouble with my own government, but that when the facts come out, everybody will speak in justification of me. He says that I did all that was possible for any human being to do to save the people. This letter I should like to have go in my testimony. It is a very interesting letter, and has been published in the Tribune and Times, of New York.

(The letter is annexed to this testimony, marked Exhibit G.)

Then I wish to say something more in reference to the predecessor of Admiral Davis. The resolution under which the committee is acting calls, I believe, for an investigation from the time of the commencement of the war. I shall state in reference to Admiral Godon, of the New York navy yard, facts which, if I prove them, ought to drive him out of the navy, and I wish that he may be present when I give my testimony.

Here is a private letter which I wrote after I arrived at Buenos Ayres, to my successor, General McMahon, in which I recite the situation of affairs in Paraguay, the circumstances that had occurred to me, giving a list of matters which I would like to have looked into, stating where I had left property belonging to certain individuals deposited with me, and telling him what my ideas were as to what he should do, &c. It appears that he has taken an entirely different course, and made friends with Lopez, and, I suppose, has apologized for my bad conduct. He is now there with Lopez, and whether he ever gets away alive is very doubtful to me.

By the CHAIRMAN:

Q. Where do you suppose Lopez to be?—A. He is back in the mountains. Lopez, unless he can make General McMahon useful, will kill him. If Lopez is determined to carry out his threat never to leave Paraguay alive, McMahon will never leave it alive either; that is my opinion. The report which he made, as the newspapers have stated, was that Lopez had been greatly slandered and maligned by me, but since then Lopez has killed nearly every foreigner in the country, and he will kill McMahon yet if he finds it necessary to his plans to do so.

Q. Have the foreign governments taken any action in reference to Lopez's conduct?—

A. Not at all; not any.

(The letter to General McMahon is annexed to this testimony, marked Exhibit H.)

I was 14 months getting from New York to Paraguay, owing to the strange and perverse conduct of Admiral Godon, and I am prepared to show that he acted not only strangely but maliciously, and that he misrepresented affairs to the Secretary of the Navy, and made many absolute misstatements. I charge Admiral Godon with having caused me unnecessary delay in getting to my post, with not having obeyed his orders, and with having misrepresented the condition of affairs, and given false reasons for his refusal to send me to Paraguay. I arrived in Rio about the 1st of October, 1865. I then told Admiral Godon that without the aid of a gunboat I could not reach my post. He said he should follow down to the mouth of the river, and that if he found it was so he would send me up. He said he would follow in 10 or 12 days after I left, but instead of that he was six weeks before he reached Montevideo, and then he would not send me to Asuncion, but would not say that he would not do so. I wrote him two or three times from Buenos Ayres, telling him that I was in a very unpleasant situation, and that I could not get through. I twice went from Buenos Ayres to Montevideo to urge him to send a gunboat to Paraguay. He hesitated for a long time, and finally, when he reached Buenos Ayres, said he would not send me up at all. I left my family at Buenos Ayres, and tried to get through to Paraguay without a gunboat. I was humbugged and deluded by the allied commander-in-chief, President Mitré, who first promised to allow me to go through, but afterwards declined to do so, although I had, on the strength of his promise, gone back to Buenos Ayres and brought my wife and servants with me. He then refused to let me go through, and I was there at Corrientes for five months under most disagreeable circumstances. Admiral Godon did nothing, and refused to do anything, although he knew my situation. I had to write to the Secretary of State in Washington, telling him how I was situated, and he sent out orders that that thing was to stop—that I must go through—and orders were sent to Admiral Godon that if I could not get through otherwise, I should apply for a gunboat, and he must send me through. I applied for a gunboat, and Admiral Godon told me that I had not obeyed fully my instructions from the Secretary of State. As I did not understand him to be the interpreter of my instructions, I thought it was very impertinent for him to say so. I did everything I could do to get through. I had visited and written to President Mitré so often that he finally told me he would have no more correspondence with me on the subject. Admiral Godon had received his instructions to send me forward, and did not obey them. Finally, General Webb, who had been home on leave of absence, returned and began to move in the matter, and General Asboth, who went out as the new minister at Buenos Ayres, also began to move in the matter. Admiral Godon finally, without any more instructions, did send the gunboat, and I got through safely, very much to his disgust. I was exposed to every inconven-

ience, and to a very unhealthy situation, by his perverse conduct. There was great scandal on the subject. I was ashamed to walk the streets of Buenos Ayres, for I could not open a paper in the morning without seeing something in it about the American minister to Paraguay, and about his being detained there, and what he was doing so long in that place. I wanted to get out of it. I told Admiral Godon that if I could retire without disgracing the country, I would do so and return home. I told him that the allies had no right to stop me going to my post, but he could not see it. He said it would take coal to send the gunboat with me. The merchants of Buenos Ayres offered to furnish the coal gratuitously if he would send up the steamer, but he said that would make no difference. The feeling was very strong against him. He had no friends there. Finally, however, I got through. He not only got to be very bitter and abusive of me, but even the men under his command who did not join with him were also abused. Captain Wells and Captain Crosby were almost persecuted out of the navy because of their friendship to me, and of their friendly intercourse with me. Personally I have more feeling in regard to this man than in regard to Admiral Davis.

By Mr. SWANN:

Q. What motive could have influenced Admiral Godon?—A. He wanted it impressed on everybody that he was the representative of the great republic, and that nobody else was of any importance whatever. He said so verbally in regard to United States ministers a good many times. He always spoke with the utmost contempt of all ministers of the United States; said that he was not responsible to them and did not care anything for them; that they were political humbugs, and worn-out politicians, &c., who were sent out there to get rid of them. That he was admiral. His conduct was most ridiculous and scandalous.

Q. Had he seen your instructions?—A. Yes. I sent him a copy of them. They appear in the diplomatic correspondence of the State Department.

Exhibits annexed to statement of Hon. Charles A. Washburn.

EXHIBIT A.

Mr. Washburn to Señor Benitez.

LEGATION OF THE UNITED STATES,
Asuncion, August 13, 1868.

SIR: Excusing myself for the delay in answering that part of your note of the 31st ultimo, relating to the case of Mr. Bliss and Mr. Masterman, which I have deferred in order to answer the part of it which seemed to me of more pressing importance, and also to answer your subsequent very long note of the 6th instant, I will now proceed to give my reasons why I have not dismissed those two persons from my legation, and why I ought not to do so.

At the conclusion of your note of the 31st ultimo, you say that you have not the remotest doubt that full and inflexible justice would be done by the American government, and then ask if it can be in full possession of the case, as is the national court of justice; if it would send the record of its trial for a new substantiation, if it could do so, and would its administration of justice be sufficiently timely?

To these questions I will remark that there would undoubtedly be considerable inconvenience in sending these persons for trial to the United States; but that does not affect the law in the case in the least. Whenever an embassy is received from one government by another, the latter accepts it under the conditions imposed by the law of nations. This law is of such importance that its rigid observance is indispensable for the peace of the world. It is only under the protection of this law that nations can negotiate with each other, as to carry on their negotiations it is necessary, especially in time of war, that there should be some persons who should enjoy entire security and immunities from the local laws. This code, universally recognized as binding on all nations, has been of the greatest advantage to them all; but it also has its disadvantages. Under it the nations that receive foreign embassies are required to concede to them certain privileges, which are not conceded to any other persons. They resign the sovereignty over the premises occupied by the ambassador, and by the fiction of extra-territoriality his legation is considered as the territory of his own government. Except under very extraordinary circumstances his house cannot be entered by the police, and no member of his legation can be cited before the local tribunals, and if they commit any offense against the laws of the country all writers on international law declare that the minister shall either punish them himself or send them to his own

country to be tried. These privileges and immunities doubtless frequently cause serious inconveniences to the local administration. But is it not better to submit to such inconveniences rather than have the law abrogated? I have known such instances of inconvenience in my own country; one of which I will mention. In the year 1856, an important witness of a homicide in the city of Washington, that excited great public attention, was an attaché of the Swedish legation. His testimony was very much desired by the tribunals, but he was never cited formally as a witness, and to the request that he would appear and testify voluntarily he replied that he would not do so, and my government had no power to compel him.

Your honor asks, in your note of the 23d July, if it does not appear to me that if the immunities of a minister should reach to the extent claimed by me, there would be no nation in the world which would be willing to accept an embassy? To this I will reply that all nations do, and are glad to, receive embassies on these very terms. What have I claimed? Simply this—that George F. Masterman, who came to my house at my solicitation as medical attendant of my family nearly 11 months ago, and has lived in my house ever since, and had his name given in as a member of the legation more than four months ago, to which no objection was made for three months afterwards, is to all intents and purposes a member of this legation, and entitled to all its privileges. I likewise claim that Porter C. Bliss, who also came to my house at my solicitation, to serve as translator, and to assist me in any other way that I might require, and whose name was given in at the time as a member of my legation, and no objection being then made to his remaining in it, but only to the capacity in which I had classified him, is also a member of this embassy.

You, on various occasions, speak of them as refugees who have sought asylum in my house. They did not seek asylum here. I sought them and engaged them to come here because I needed their services. At the time they came there was no charge or accusation against either of them. How, then, can they be considered refugees? They were not refugees, and this is not a question of the right of asylum, but of the rights of legation.

You, however, allege that they have never been recognized by your government, but that having refused to recognize them, I therefore have no right to claim them as exempt from the local jurisdiction. But this refusal was not made till after they had been claimed as criminals, and months after they had been tacitly acknowledged as belonging to the embassy. Such refusal was quite too late to affect the case.

The doctrine advanced by you, that a foreign minister cannot claim legation privileges for his servants, secretaries, and other members of his household till the government to which he is accredited specially recognizes them by name, is something entirely new to me; something that I do not find in any writer on international law. If a minister gives in a list of his suite, and no answer is made, no objection is taken by the government, then it tacitly acknowledges that all included in that list are members of the legation, and it cannot afterwards plead its own failure to acknowledge the minister's letter as a justification of its refusal so to recognize them.

That this is correct reasoning you must admit, if you will apply it to my own case. Though I have given two lists of the members of my legation, you have never recognized a single person now in it, unless it be Mr. Bliss, and Baltazar, the colored servant left with me by Dr. Carreras. But you have never recognized either my wife or child, or my private secretary, who has been in my service for more than a year and a half, or the servant girl that we brought with us into the country. According to your reasoning and logic, however, you have only to say that any one or all of them is accused, and that the government refuses to recognize them as belonging to my legation, and I have no remedy but to send them away. Such is the inevitable conclusion to be drawn from the premises and logic of your honor.

To the question whether or not the punishment that my government would administer would be timely, I reply I do not see why not. You cannot suppose that these two individuals, closely shut up as they are in this legation, and having no communication with any person outside of it, can be dangerous. If not, why will not their punishment, if proved guilty, be as timely some months hence as now? If they can give any evidence which is necessary to ascertain the truth in regard to other accused parties, they have both expressed their willingness to do it; and should the government choose to send a notary to my house to examine them, I will give him every facility for doing so. I will also say that Mr. Bliss has declared in relation to the paper which you in your note of the 23d of July say that he "in a secret committee of mutual obligations" has signed to commit an infamous crime, that if any such paper signed by him shall be produced at this legation he will instantly leave it. To this I will add that while I shall still insist on my rights of legation, I will undertake that he keep his promise to me.

In my former notes to you I have called your attention to this maxim of law, that "every man is to be considered innocent till he is proved guilty." Yet you, disregarding this principle, continue to speak of these two members of my legation as criminals and refugees, without ever having given me any proof of their guilt. You have also

complained that I should not receive your official statement of their criminality in preference to their own protestations of innocence.

I have not allowed myself to question the sincerity of your belief in their criminality, but as you do not pretend to speak from your own knowledge, I may yet doubt the truthfulness of your informants. Certainly you will not allege that the witnesses against them are persons who have enjoyed higher honors, or had previously been more respected than Berges and Carreras, whose declarations I know to contain almost as many falsehoods as sentences. If declarations so false have been made by them, with the object of connecting me with an infamous plot, is it not possible that equally false declarations have been made for the purpose of implicating others? I, acting according to the laws of my own country, must presume them innocent till I have a proof to the contrary. From your own personal knowledge of these gentlemen, you must be aware that they are, from education and habit, the very last people that conspirators and complotters would take into their counsels. Mr. Bliss, you are aware, is a man of extraordinary literary acquirements, and his whole taste and ambition is in literary pursuits; and Mr. Masterman is a man whose tastes and desires lead him to pass his whole time in scientific investigations. Neither one of them has any of the detestable gaucho characteristics that would lead them to take part in a revolution, and as I have known them both long and intimately, I am bound to take their solemn asseverations, not only of innocence, but of entire ignorance of any plot or conspiracy, in preference to the declaration of any or many confessed conspirators or traitors.

But with me this is not a question of guilt or innocence. It is a question of the rights of legation. Months ago I gave in their names as belonging to my diplomatic suite, and the government, by not objecting to them as members of my legation, tacitly acknowledged them as such; it acknowledged them as much as it has acknowledged any one in my house, and has now just as much right to claim any one else of my family or household as to claim either of them.

I will add another consideration. Both of these men are so indispensably necessary to me that even if they did not belong to my legation, and the safety of the state were not endangered by their remaining here, I should ask it as a courtesy that they might be allowed to stay for the present. Without the aid of Mr. Bliss I could hardly have carried on the heavy correspondence I have had during the last month; and were Mr. Masterman to leave me, it would be, under the circumstances—when the aid of no other physician can be obtained—at the risk of exposing the lives of my wife and child and other members of my family; and I am sure that the government has no wish to expose me to any such calamity.

The position taken by you that until a government expressly recognizes the members of a legation they cannot claim its privileges, but are liable to be arrested like any other persons by the police, would or might at least render his right of extra-territoriality virtually a nullity. The government might thus compel him to dismiss all his servants, it might prohibit his own subjects to enter his service, and thus leave him without any servant or assistant in any capacity, except such as it might suit its own purposes that he should have. I have never asked either you or your predecessor to recognize the members of my legation by name, or, in other words, I have not asked the privilege of employing them. I am to be the judge of the persons necessary to the discharge of my official duties and the health and comfort of my family, and not the government of Paraguay. Should a minister on entering a country take with him in his suite known criminals, or persons obnoxious or dangerous from their political opinions, a government might undoubtedly object to concede to them legation immunities, and could insist that they should leave the country. But it would have no right to molest them, and would be bound to protect them in every way until they had ample time for their departure. In no case has a government a right to inflict any other penalty on a person attached to a foreign legation than to send him to his own country to be punished. If, however, the ground assumed by you is correct—that no person can claim legation privileges until he has been expressly recognized by the government, but may be cited before the local tribunals—then if I comply with your request of to-day, I may be called upon to send away the other members of my household to-morrow, as you have never recognized them as belonging to my legation. If all are not in the same category, and some are and some are not entitled to legation privileges, will you please advise me which of the names in the list appended to this letter are recognized as belonging to my legation.

In your note of the 31st ultimo you observe that it is the more strange that I should still decline to send Mr. Bliss and Mr. Masterman from my house, since I shall then have superabundant means to give them protection. What those superabundant means are you do not advise me, nor do I understand what means will be left me to protect them when once in the hands of the local tribunals. Will you have the kindness to give me further information on this point?

In my note of July 14 you will recollect that from the tone and tenor of your preceding notes, and from the fact that you had finally called for two persons whom I had always considered members of my legation, I said it appeared that I had lost the respect

and confidence of this government, and that, therefore, as it did not seem that I could be longer useful either to my own government or that of Paraguay, or to any individuals in the country, I requested passports for myself and for the members of my legation. To this you replied on the 16th, assuring me in the strongest terms that I still retained the esteem and confidence of your government, expressing the hope that such assurances would lead me to reconsider my previous resolution. Such expressions I accepted as satisfactory, particularly when in the same note you again requested the dismissal of Messrs. Bliss and Masterman from my house, but said you would waive all further discussion on that matter, leaving it to my own sense of justice. I then believed that the demand would not be further pressed; but while preparing my note of the 20th ultimo, giving my reasons for the course I felt it my duty to pursue, I was surprised and pained on receiving your note of the 19th, which was closely followed by those of the 21st and 23d, to observe a tone and tenor of an entirely different character.

This sudden change I have attributed to the strange and false declarations of Berges concerning me, and, if I am right in this surmise, I cannot wonder that, false as the declarations are, the government should have changed from confidence and regard to distrust and suspicion. But if the government has accepted my words in preference to those of a convicted traitor, I cherish the hope that it will resume the position taken in your note of July 16, and leave me to pursue the only course that in my opinion will be approved by my government, by public opinion, and by the family of nations.

I avail myself of this occasion to give assurance of distinguished consideration.

CHARLES A. WASHBURN.

His Honor GUMESINDO BENITEZ,
Acting Minister of Foreign Affairs.

EXHIBIT B.

Mr. Washburn to President Lopez.

UNITED STATES STEAMER WASP, OFF ANGOSTURA,
Paraguay River, September 12, 1868.

SIR: When Captain Kirkland was about leaving this vessel yesterday to bid farewell to your excellency, I gave him a memorandum of certain things to which I requested him to call your attention. Captain Kirkland informs me that on reaching your headquarters he found he had omitted to take this memorandum with him, and therefore was unable to comply fully with my request, having only given the paper a hasty perusal. I, therefore, take the liberty, at the moment of my departure, of deviating from diplomatic customs and sending a personal note directed to your excellency. In this memorandum I suggested that he might show you a letter from General Webb, our minister in Rio, from which it would appear that he had almost come to a rupture with that government, by reason of its refusal to permit this vessel to pass above the squadron. This he had done on his own responsibility, without waiting for orders from the United States government, which, on hearing of the outrage, has doubtless taken the most energetic measures to enforce its rights and extricate its minister from a most frightful position. This letter you saw proves how much truth there was in the declaration of your ex-minister for foreign affairs, José Berges, that I was in collusion with General Webb, and in the interest and pay of the Brazilians.

I have in my possession several letters for Dr. Carreras, which I yesterday requested Captain Kirkland to deliver, but which he refused to do unless I would open them, lest he too should be accused of conveying treasonable correspondence. I herewith send the letters, however, as I do not believe that any treasonable correspondence has ever passed through my hands for or to anybody. In fact, I do not believe there has ever been any conspiracy.

The declarations of Berges, your two brothers, Venancio and Benigno, and Sr. Urdepilleta, as given in the notes of your two last ministers of foreign relations, in so far as they implicate me as having any knowledge of a conspiracy, are entirely false, and you know it; and you know that not one of them would confirm or affirm the declaration imputed to him if he were out of your power, but would deny it "in toto," and declare that he had never made it, or that he had done so under torture. Declarations of that kind, your excellency ought to know, will have no weight outside of Paraguay. Not one word of them will be believed, and that all may not be denied by them, you must not only kill off all the persons who have made them, but all by whom they were extorted.

Before finally leaving Paraguay, it is my duty to make my solemn protest against the arrest of those two members of my legation, Porter Cornelius Bliss and George F. Masterman. Their arrest in the street, as they were going with me from the legation

to pass on board the steamer, was as gross a violation of the law of nations as would have been their seizure by force in my house. It was an act not only against my government, but against all civilized powers, and places Paraguay outside the pale of the family of nations, and for this act you will be regarded as a common enemy, one denying allegiance to the law of nations.

You will also be regarded as a common enemy for having seized and made prisoners, and loaded with fetters, nearly all the foreigners in Paraguay, and afterwards entered their houses and taken away their money on the miserable pretext, that finding less in your treasury than you expected, those who had any money in the country must therefore have robbed it from the government.

Your threat to Captain Kirkland, on his first arrival, that you would keep me a prisoner in the country, will be duly represented to my government, and I only wish to confirm his reply to you, that had you done so my government would have hunted you not only through all South America, but throughout all Europe.

Your obedient servant,

CHARLES A. WASHBURN.

His Excellency Marshal LOPEZ,
President of Paraguay.

EXHIBIT C.

Mr. Bliss to Mr. Goodfellow.

LEGATION OF THE UNITED STATES,
Asuncion, September 7, 1868.

MY DEAR SIR: Appreciating the friendly interest you have always shown in me, and the kindness with which you have aided my family to obtain news from me during my long detention in Paraguay, I think it proper to send you the present letter by Mr. Washburn, who will doubtless make known to you in detail the unprecedented events which have recently transpired here, affecting the rights of all neutral nations, and more especially involving an unexampled violation of the immunities of the American legation, and of the treatment due to an accredited minister of the United States.

You will learn, sir, with surprise, that in common with hundreds of foreigners and natives, comprising almost all the adult males of the country who were not bearing arms, I am accused of belonging to a conspiracy against the government of Marshal Lopez, with the additional aggravation respecting me that I am also charged with belonging to a secret committee, who have put their hands to a compact to assassinate the marshal. You can readily judge of the probabilities of both accusations, and will easily believe me when I say that there is not even the slightest foundation for them, and that, so far from knowing of any conspiracy, I have grave doubts whether any has existed, notwithstanding all the acts of this government, and the so-called confessions of criminals, to be found in the published correspondence between Mr. Washburn and the minister of foreign affairs. This doubt is, I believe, common to all the persons belonging to the American legation.

You will also see the herculean efforts which have been made by this government to fasten upon Mr. Washburn a complicity with the real or pretended revolutionary plot. You will see the false testimony which has been put into the mouths of prominent persons. Much of these statements is self-contradictory, and all of them conflict with each other upon the most essential points; and lastly, they all have this in common, that they furnish no definite information concerning the organization, objects; means, and occasion of action, nor even who were to take the decisive steps; besides, among so many revolutionary papers alluded to, apparently not one of that character has been seized by this government.

But I have no need to discuss the matter further; the truth is evident and will be recognized by every one in Buenos Ayres. I hope some decided action will proceed from the ministers of neutral nations in Buenos Ayres, though I can scarcely hope that any such action can benefit me, as I am already declared guilty by the government, although not having the slightest idea of the nature of the testimony, necessarily false or forged, which has been or will be produced against me.

All persons in this legation have passed the last two months, since the extradition of myself and Mr. Masterman was demanded, in a state of continual agitation, alternating between hope and despondency, and following the course of the correspondence, which, on the part of this government, has steadily gone from bad to worse.

I desire to bear the strongest testimony to the fact that, as to all the statements implicating Mr. Washburn in the conspiracy, there is not one of whose truth I have any knowledge, and most of them I know to be false. I also wish to bear witness to the unswerving constancy with which he has insisted upon the rights of legation, and done for me all that could be appropriate under the circumstances. Whatever may

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happen to me, I can meet my fate with a stout heart and perfect confidence in the Great Architect of the universe, knowing that my Redeemer liveth. I have written at large to my family.

Accept my gratitude for favors received from you and Mrs. Goodfellow, to whom I send my love, and regards to all inquiring friends.

Yours most truly,

PORTER C. BLISS.

Rev. WILLIAM GOODFELLOW.

EXHIBIT D.

Mr. Bliss to Mr. Davis.

LEGATION OF THE UNITED STATES,
Asuncion, September 10, 1868.

DEAR SIR: You will learn from Mr. Washburn of the queer doings that have been going on here for two months past, or, at all events, will learn enough about it from the newspapers. I never thought to be accused of "high treason" by any government under the sun; for, being a musical genius, as you are aware, I am clearly not fit for "treasons, stratagems, and spoils." Whatever comes of the affair, I desire to bear testimony to the persistent efforts of Mr. Washburn to save myself and Mr. Masterman, my fellow-rascal, (as the official correspondence of the ministry here politely designate us.) Mr. Washburn had like to have shared the fate of the hero of his own novel, if the United States gunboat Wasp had not very opportunely come to his rescue. As it is, he escapes "by the skin of his teeth," after all possible obstacles have been put in the way of his departure. The Wasp is now lying but a league below here, but is not allowed to come up. I suppose Mr. Washburn will leave to-day, and I shall immediately be nabbed by the 20 or 30 "guardians" who have kindly "looked after me" for the last two months.

I hope for relief from our government in three or four months; that is, if it don't come too late for any practical purpose, so far as I am concerned.

Please give my best regards to General Webb and his family. I hope Mr. Washburn will arrange all little matters between us; please give him any letters or keepsakes of any little value for my family that I left in a trunk with you. I accompany some lines for Mrs. Davis.

Yours, faithfully,

PORTER C. BLISS.

GEO. N. DAVIS, Esq.

EXHIBIT E.

Mr. Bliss to Mr. Washburn.

SEPTEMBER 11, 1868.

SIR: Finding myself at length relieved from the restraint which your excellency has so long exercised over my will, I cannot do less than express freely and spontaneously the important part which your excellency has taken in the revolution in which you have involved many persons, and among them myself. I have declared (feeling deeply, because I would like to avoid such a scandal to your excellency, but following out the truth) that your excellency has been the soul of the revolution; and if this deed now appears to the light of heaven, confessed to by all its accomplices, to whom does it owe its existence save to your excellency, who has continued its direction up to a very recent period? I consider myself, therefore, completely absolved from the promise which your excellency extorted from me yesterday in your office not to reveal your proceedings, old or new. Even your brilliant speculations with the company of Hopkins, for which your excellency ought to pocket a hundred and odd thousands of patacones, have been put in evidence, as also the gilded pill you made Polidoro and Octaviano swallow, as also the Marquis of Caxias, at the time of your excellency's celebrated visit of mediation in March, last year.

The object of this letter is to say to you that I have determined to request from your excellency the delivery to the bearer of my historical manuscripts which involve a compromise with this government, and which are, without reason, in deposit with your excellency, you having taken possession of them during my illness last year, and because I have forgotten to demand them of you. They consist, as your excellency well knows, of a voluminous history of Paraguay till the year 1810, and some 2,000 pages, or more, of notes in Spanish on more recent epochs, with the chronology up to our days.

Also, I beg that your excellency will have the goodness to send me the three letters written by express order of your excellency, for your justification regarding the affairs of the revolution, of which one is addressed to the New York World, another to Rev. Wm. T. Goodfellow, in Buenos Ayres, and the last to my father, Henry Bliss, of New York.

The truth having been fully displayed, these letters cannot serve your excellency for any object, and, since they are false, it suits me no longer to keep the mystery of hypocrisy, and for your own honor your excellency ought to comply strictly with these my demands.

I do not exact from you the English manuscripts which your excellency made me write in a spirit inimical to Paraguay, since these are the property of your excellency; but I advise you, as a friend, not to attempt to fight against the evidence given by infinite witnesses.

I take advantage of the occasion to salute your excellency with distinguished esteem and appreciation.

PORTER C. BLISS.

His Excellency Hon. CHARLES A. WASHBURN,
United States Minister Resident.

EXHIBIT F.

Mr. Washburn to the British minister.

BUENOS AYRES, September 24, 1868.

SIR: When I left Paraguay on the 12th instant, I regret to inform your excellency that nearly all the foreigners in that country, including several of your countrymen, were in prison, and as I am the only person beyond the reach of President Lopez's power who has any personal knowledge of their situation, it seems to be my duty to give any information I possess to the representatives of the different foreign governments, that knowing the condition of their unfortunate countrymen, they may take such action as may seem most proper in order to extricate them from their terrible situation. Unless speedy action is taken, there may be none left to tell the tale of their annihilation!

To give an idea, therefore, of the situation there, and of the dangers and horrors to which all foreigners in that country are subjected or exposed, I propose to give a brief narrative of the events that have transpired since the 21st of February last. On the evening of that day, on returning from a duck-shooting, "paseo," I learned that several Brazilian iron-clads had passed Humaita, and were on the way to the capital. On reaching my house, I was informed that the minister for foreign affairs, José Berges, had sent an urgent request for me to visit him at his office. I immediately complied, when the minister told me that the Brazilian squadron having passed Humaita, and being already half way to Asuncion, the government had ordered an evacuation of the city, and had declared it a military point. He also said, the capital was to be removed to Luque, a little village some ten miles from Asuncion, and that he had invited me to visit him, in order that I might have such accommodations provided for me, at or near Luque, as I might select. I replied that, whoever else might obey the order of evacuation, I, certainly, should not. My legation was, for the time, the territory of the United States, and I should remain in it, giving such protection as my house and flag could afford, to all who chose to resort to it. I told Señor Berges also, that the government had no right to compel the foreigners to abandon their houses and property; that if they chose to remain and defend it, taking the risk of exposure to a bombardment of the town, they had a right to do so. He dissented entirely from this view, and on returning to my house, I found it full of people, who were anxiously waiting to learn if I would remain in the capital or not. I told them that I should stay, and many more than my house could accommodate asked permission to remain within the legation. I told them that I could not give them all shelter, but if they chose to deposit their valuables in my house, I would receive them, but always subject to their own risk; I should give no receipts for anything.

The same evening and the next day people came rushing in in large numbers bringing their trunks and boxes, and several iron safes, all of which were deposited in the different rooms of the legation. The next day people were hurrying terror-stricken from the towns; not from fear of the Brazilians, but of a worse enemy, and towards evening several English came to my house and asked me to permit them with their families to occupy certain vacant rooms in the rear of my legation. As they were all in the government employ, I suggested that it would be more prudent for them to get permission to do so from the authorities. They accordingly asked and obtained the permission, and on the following morning they came with their families, 21 persons in all, and took shelter in the legation. The following morning Dr. Antonio de las Carreras, who was

the former head of the Oriental government, and a most bitter enemy of the Brazilians, fearing lest if he fell into the hands of the allies he would be treated as was Leandro Gomez after the fall of Paysandu, came to my house and asked for shelter. He was accompanied by Francisco Rodriguez Larreta, who went to Paraguay as secretary of legation with Dr. Vasquez Sagastume, the Oriental minister resident in 1864, and I gave them a cordial welcome, and they remained with me till July 13. At the time we all thought that the war was virtually over, and that within a few days Asuncion would be in the hands of the Brazilians. Such was the universal wish of everybody, Paraguayans and foreigners alike. On the 24th the iron-clads approached Asuncion, which was defended by a little fort having but one gun of sufficient caliber to do any harm to monitors or iron-clads, and this one so badly mounted, as I was informed afterwards, that it could not be depressed so as to be of any service. As the Brazilians approached this fort they began firing at it, but without injuring it. The fort replied with some half a dozen shots to some thirty-five or forty from the iron-clads, when the latter, for some reason inexplicable to me, turned back and went away. No harm was done to the fort, and very little to the town. One shot struck the new palace of the president, but the damage done to it was very trifling. We then supposed that the iron-clads would soon return reinforced, but week passed after week, and month after month, and we could learn nothing of what was going on at the seat of the war. Supposing that Lopez was shut up within his intrenchments around Humaita, and that it would be impossible for him to escape with any considerable portion of his army, we thought the duration of the war was only a question of time, a few days, more or less. Thus things remained with us till, on the 1st of April, we learned for the first time that Lopez had abandoned Paso Pucu, and had reached and passed the Tebicuari with the larger part of his army. Thus the end of the war seemed to be indefinitely postponed. Our situation in Asuncion was extremely disagreeable, as it was impossible to obtain many things elsewhere regarded as necessities of life.

The town was completely deserted, save only that more or less people were permitted to come in occasionally to carry away things that, in their first fright and hurry, they were unable to do. Some incidents occurred which showed that the government, or rather Lopez, for Lopez is the government, did not approve of my keeping so many people in my legation, and therefore all who had not been recognized as belonging to it thought it prudent not to venture into the streets. But considering the circumstances, we passed the time more pleasantly than could have been expected. Carreras and Rodriguez were most agreeable and intelligent gentlemen, and Mr. Bliss was an encyclopedia of knowledge on almost every subject. Our Paraguay servant was able to obtain for us all the beef, mandioca, maize, chickens, and eggs required, and sometimes a duck or a turkey; the caña of the country could also be obtained at double the price of Martell's best brandy. But the gloom seemed to be darkening every day over the country; scarcely ever did a person come to my house to carry away anything deposited there, but he had to tell of other foreigners arrested and taken in fetters to the president's headquarters at San Fernando. What it all meant no one could divine—there was a terrible mystery about it. At length, however, about the 1st of May, I received notice that the United States steamer Wasp had come up as far as Curupaity to take me away, and was there detained by the allied squadron. I knew that Lopez did not wish me to leave Paraguay, that he, like everybody else, was very anxious for me to remain. The foreigners of all nations were especially desirous that I should wait to the end of the war, and many of the better class of Paraguayans, those having most to lose, were exceedingly importunate that I should stay to give them the protection of my flag at the last extremity. Of these the mother of the President was one of the most solicitous. I told them all that I would not abandon them; that I would endure privations and loss to give them any protection in my power, and that if a successor did not come to take my place, or imperative orders from my government to return home, I would stand by them to the last. I knew also, or at least had no doubt that if I had proposed to go away and had asked Lopez for means of conveyance to pass through the allied lines to embark on the Wasp, he would not have granted my request. I therefore wrote to the commander of the Wasp that if he did not come above the squadron my family could not get aboard of his steamer, and I therefore urged him very strongly to force the blockade. My great object was to get my wife and child out of the country, and if the Wasp was once above the military lines I could go or not with or without the permission or favor of his excellency Marshal Lopez, if on the arrival of the steamer it should appear to be my duty to do so. I was disposed, however, to remain, as I knew that if I left I should carry with me the last hope of hundreds or thousands. They all seemed to think that in any contingency my house and person would be inviolate, I did not fully share this opinion, but I nevertheless thought if I could get my family away so much would be gained, and then it would be my duty to remain. With this view I went down to San Fernando, to see President Lopez and confer with him in regard to the passage of the Wasp above the Brazilian squadron. I found him reserved, and though evidently he desired that the Wasp should come through, and before leaving to return to Asuncion he promised to forward

my letter to Capt. Kirkland by flag of truce, and gave me letters to inclose to his commanders at Humaita, and Curupaiti, to allow the Wasp to pass without molestation. In my conversations with Lopez, he expressed great dissatisfaction that I had admitted so many persons into my house. My communication to Captain Kirkland being dispatched, I returned to Asuncion. The Wasp, however, did not at that time go above the squadron, and we were then all left in uncertainty whether or not anything would come to our rescue ere it was too late. The arrests of foreigners continued, but for what object or for what offense no one could imagine. The few people I saw were more frightened and shy than ever. Nothing, however, of importance occurred till, on the 16th of June, we were surprised by the appearance of the acting Portuguese consul, José Maria Leite Pereira, and his wife, who came to ask the protection of my house and flag. Of the events that followed this I refer you for information to the correspondence already published. First, the government desired to know if the said Leite Pereira was in my house. I replied in the affirmative, but denied the right of the government to question me as to the persons in my legation, and that, if it knew or suspected any obnoxious person to be within it, a specific allegation of his offense must be made before I should be under obligations to send him away. Some two weeks passed after the first call for him was made before it was repeated, and, in the meanwhile, we all began to cherish the hope that he would not be molested. His whole offense, so far as I knew then, or know now, was the crime, which among civilized men would be considered venial, if not meritorious, of spending all his own money, and all he could borrow, to relieve the prisoners who fell into the hands of Lopez, relying on them or their respective governments to repay him after the war. On the morning of his coming to my house, however, he had received notice that his consular character would no longer be respected, and as he had previously been cautioned that Lopez was badly affected towards him, he considered the withdrawal of his exequatur as but a prelude to imprisonment, irons, and starvation; he, therefore, fled with his wife to the United States legation, hoping to find shelter and protection. It was accorded him without hesitation, though regarded by me as an unwise and imprudent step on his part. On the 11th of July, however, the dream of security was dispelled by the receipt of the letter from the acting minister of foreign relations, Gumesindo Benitez, in which the government demanded the dismissal on the following day not only of Leite Pereira, but of everybody else in my house that did not belong to the legation. Pereira and the English left accordingly, though "I told them all that I did not send them away, and that if they chose to remain they might do so, and I would never deliver up one of them until some specific crime was alleged against them." They all thought, however, it was best for them to go, and the English requested me to go and see Colonel Fernandez, the military commander at Asuncion, the men offering to resume work in the arsenal, and requesting to be advised of the points to which the women and children would be sent. The house was surrounded by as many as forty policemen, and the English were afraid of being taken immediately to prison. Fernandez, however, pledged me his word of honor that they should not be molested by the police, but should be well treated, and said the men would be again taken into the service, on condition of making new contracts. The men had made the offer only because they thought it better to go to work than go to prison. They accordingly left the legation, in the afternoon, and were directed to the railway station, where they were most miserably provided for, notwithstanding that Fernandez had pledged his word of honor that they should be well treated. They remained in that situation for about a week, when they disappeared, and I know not what has become of them. I have heard that the women and children were sent to a village about four leagues from Asuncion, called San Lorenzo, and that the men had, like most of the other foreigners in Paraguay, been taken in irons to the army headquarters. Leite Pereira left about five p. m. of the same day, and was arrested as soon as got into the street. Of his subsequent fate I know nothing. On the same day I wrote a letter to Benitez, advising him that the Portuguese consul and the English had left voluntarily, but that as no charge had been made against Carreras or Rodriguez, and they preferred to stay in the legation, and as such was also my wish, I presumed no objection would be made to it. By sunrise, however, the next morning I received another letter still more urgent, demanding that they should leave my house by one o'clock of that day. Still no specific charge was made against them, and I told them that they might go or stay as they thought best, but that they would have the protection of my house and flag until they were taken by force, or till some direct crime was laid to their charge. They both said that if I would promise to remain till the end of the war, they would not deliver themselves up, as it was impossible for any specific charge to be brought against them, and they did not believe that Lopez would venture to take them out of the legation by force. But I could not promise to remain to the end of the war, and they, therefore, said it was better that they should go at once than to enrage Lopez by remaining, when at last they would probably fall into his merciless clutches. They accordingly left at 12 m. of the 13th of July, but not till I had shown them my letter of the same date to Benitez, in which I gave my reasons for believing that the government could have

nothing serious against them, and that, in regard to Rodriguez, even if it had, they had no right to touch him, as he was entitled to diplomatic immunities.

This letter I sent the same afternoon to Benitez, and as all were then gone who did not belong to the legation, I thought that I should be left to a dismal peace. Before night, however, came another letter demanding that I should likewise send away two members of my legation, P. C. Bliss and G. F. Masterman, whose names as such had long before been given in to the ministry for foreign affairs.

At this point I made a stand, as you will see by the published correspondence, and by fencing and fighting to the best of my ability, saying some flattering things about Lopez, I kept them with me till my final departure. I admit that I purposely prolonged the correspondence in the hope of saving these two men. They were arrested, however, as they started to accompany me to the steamer, at the moment of leaving the legation, taken by force from my side, and their subsequent fate may be guessed at from what I shall hereafter relate.

May none ever know the uncertainty of the last two months and a-half of my life in Paraguay. To see men with whom one has had the most friendly relations for months, with whom one has discussed questions of history and politics every day, varying the monotony of the days with billiards and of the evenings with whist, and yet to feel that these very men with whom one was talking over the situation might be in irons in one hour and shot within twenty-four; certainly, you will allow this was enough to render even the sleep of a brave man fitful and uneasy, and of a man like me, without such pretensions, utterly inadequate to "knit up the raveled sleeve of care." And up to this time, we had not the least idea of what it was all about. No such word as treason or conspiracy had, to my knowledge, ever been heard in my house. What could Lopez want? Was it his plan to kill off all foreigners, that no one may be left to tell the story of his enormities? Did he seek to blot out the record of his crimes? If so, the minister was no safer than the other members of the legation. But as Bliss and Masterman were not taken for several weeks after the departure of Carreras and Rodriguez, we gradually got into a more normal state. The conduct of persons accused in the time of the French revolution, whose levity in the prospect of death seems incredible, appeared to us, as we often remarked, no longer strange; but to the credit of Bliss and Masterman, though not to myself, as I did not consider my danger as great as theirs, I will say, we scoffed at the dangers before us, and talked, joked and laughed as freely as though we had nothing to fear. At this point I may remark that, from the time that Leite Pereira came to my house, it was always surrounded by at least a dozen policemen, and that frequently on looking out in front I have counted more than that number on one side. Probably fifty men, who might otherwise have been in the army, were kept night and day to watch me and the members of my legation. In the meanwhile we could hear scarcely anything of what was going on. With the exception of the consuls, who occasionally came in from Luque, no one ever came to my house, and my Paraguayan servants, if they learned anything, feared to tell it. I did learn, however, that about the time that the great sweep was made from my house, the brother of the President, Venancio Lopez, was carried off in irons to the army headquarters. His other brother, Benigno, had been called below long before, and when I visited his excellency at San Fernando, in the early part of May, Don Benigno and the minister of foreign affairs, Berges, were both close prisoners, as was the President's brother-in-law, Saturnino Bedoya. The old vice-president, Sanchez, who had previously been a prisoner, was then allowed to leave his house, but neither he nor any Paraguayans dared approach me or be seen with me.

For a time we feared it was the intention of Lopez to cut the throats of all the foreigners, as we knew but little of any arrests at that time of Paraguayans. If they were arrested they were taken off so quietly that we might or might not hear anything of it for weeks or months. But while the English who had been in the legation were detained in the railway station, the train came in one night at midnight full of prisoners. The English could see nothing, as no light was allowed in the station, but the clanking of the chains and the sighs and groans of the prisoners as they were forced from the cars and driven forward towards the bank of the river, were distinctly audible. They were all embarked in a steamer for San Fernando before daylight. A few days after I learned that this crowd of prisoners was almost entirely composed of Paraguayans; that nearly every man in the new capital, the judges, clerks, accountants, and all save the chief of police, Sanabria, a man eminently distinguished for his brutality, Benitez and the vice-president, were the only ones left there, besides policemen and soldiers; that there was a gloom over the place, so deep and funereal-like, that the women and children scarcely ventured out of their houses, and if they did, it was with fear, as if they had just felt the shock of an earthquake, and were in dread of another. For more than fifty years the country has been a Dionysius gallery. It was always the policy of Francia, and of Carlos Antonio Lopez, that everything said should reach the ear of "El Supremo." But in the worst days of Francia the government was mild and paternal compared with what it has been under this younger Lopez. People have been thrown into prison not only for saying things perfectly innocent, and for not

reporting what they have heard, but also for the crime of not reporting what they have not heard. It is made the duty of everybody to be a spy on everybody else, and woe to him whose ears are not open to every word spoken in his presence.

The arrest of all the civil magistrates indicated that it was not the foreigners alone that had made themselves obnoxious to Lopez. But what it was all for, no one in my house, as I yet firmly believe, had the least idea. The published correspondence, however, will show that about the 18th or 20th of July, the government suspected, or effected to suspect a conspiracy; alleging that ex-Minister Berges was a traitor, and was in collusion with the enemy, and that under my official seal I had transmitted the correspondence to and fro between the conspirators. I must refer you to the published correspondence, to show how they undertook to connect me with the conspiracy; or at least, as knowing that a revolution was in contemplation. At first it would seem that they were so confident of implicating me, that they began to publish the correspondence, but after receiving my letter of the 11th of August, in which I showed so many contradictions in the declarations that had been made by the accused—probably under torture—that they suspended further publications. But it was not in the nature of Lopez to show any magnanimity, or even justice, by acknowledging he had been led into error by false depositions. Men who know him would as soon accuse him of ordinary courage, as of magnanimity, and he never was accused of that, except in his own "Semanario," of which he is virtually the editor. During all this war, Lopez has never exposed himself to any personal danger; he has never on a single occasion risked himself in any battle, and while he was at Paso Pucu he had an immense cave or rather house, with walls of earth over 20 feet thick, from which he never ventured for weeks together; and at the same time that his organ was filled "*ad nauseam*" with accounts of the great Lopez leading, with dauntless valor, his legions to victory, he was sitting quaking and quivering in his cave afraid to venture out lest a ball might reach him. On one occasion, some two years ago, when he was out with his bishop and his staff, a shell struck at a distance of half a mile or more from his excellency. Instantly the brave Lopez turned and ran like a scared sheep, with his staff, including the bishop, after him, the latter losing his hat as he fled affrighted after his chief. This is the only instance known of his ever having been in personal danger; he has not even the vulgar merit of personal courage, nor has he any other. His firmness, carried to obstinacy, is the result of personal fear. Many persons, his own people who have escaped from his power, and whose families have been tortured and otherwise persecuted to death, have sent messages to him threatening to kill him at sight should they ever meet him; he therefore dares not treat with the enemy, for so many have sworn to pursue him, the world will not afford him a refuge if he once has no army between him and his enemies; he knows the country to be lost and ruined; he has no navy, and, in my opinion, not more than one-fifth of the land forces of the enemy. Why the latter do not attack him and put an end to the war I do not know; but they do not do so, and the war may not end for a long time. Lopez has recently said he expected to be compelled soon to fall back from the river, and then he would retire into the mountains, driving everybody, foreigners and Paraguayans alike, before him. In that case, at the rate the allies have been going on for the last two years, it will not be long before he will be unable to present as strong a front to his enemies as he did when they landed above the Tebicuari—viz., one man to watch the telegraph.

It was not, however, till August that I heard, besides the conspiracy against the government, that there had been a great robbery of the public treasury. Of the particulars of this robbery I could never learn anything—neither did I ever have any knowledge of the details of the plan of the conspiracy. It was said in one of Benitez's letters that Mr. Bliss, a member of my legation, had signed a paper, with others, in which they had engaged to assassinate President Lopez. I knew that was false, or, at least, had no doubt that it was so, and defied them to produce any such paper; but they never showed it. They never gave me any clue as to the manner of the conspiracy or how the revolution was to be effected, and I do not believe to this day that anything of the kind was ever attempted. The declarations of the prisoners prove nothing except the merciless cruelties of Lopez, for it is known that he freely employs the torture. He loads his prisoners with heavy fetters, sometimes two, three or four pair, and besides flogs them, if they do not give the testimony he requires, till they die.

The only explanation I can give in regard to the robbery of the treasury is this: since Lopez came into power he has never had a competent bookkeeper in his employ, and very probably has never known till recently how much money had been left by his predecessor. He has been spending largely ever since, and probably no accurate account has ever been kept of the amount paid out according to his order. After the city was evacuated, however, in February, he probably had occasion to count his money, and found a large hole in the bottom of his treasury. This discovery was not probably made till some months after the removal to Luque, as about the month of June we found that all those foreigners who had made any money during the past years, and were most likely to have any in their houses, were arrested and sent below. Among them were English, French, Italians, Spaniards, Germans, and Portuguese. The plan

of Lopez appears to be to get this money into his hands, and then, by torture or threats, to extort confessions of being either conspirators or plunderers of the treasury. On these confessions they will probably be executed on the precautionary principle of foot-pads and other murderers that "dead men tell no tales." How Lopez expects to escape with the money thus obtained, I do not know. Perhaps he thinks that some neutral gunboat will take him and his plunder away at the last moment. But I here give notice that the money thus taken does not belong to Lopez. It is the property of citizens of those powers that are able to pursue it and return it to its rightful owners.

Your excellency, as all the world, probably wonders how it is, if Lopez be the character I have described him, that he is served so faithfully and bravely. It is entirely through fear, for save and except a few of the most willing instruments of his cruelties, like his favorite mistress, his bishop, Luis Caminos, Sanabria, and a few others, who have evinced most alacrity in doing his bloody work, there is not a man, woman, or child, (I do not except either his mother, sister, or brothers,) who would not thank God if he would take him to another world, where his deserts could be more adequately rewarded.

Why, then, do the Paraguayans fight so bravely? It is not because of their superior courage nor of their devotion to Lopez. That they are a brave and enduring people, cannot be denied. But the reason why they fight so desperately is this, that according to Lopez's system of discipline, there is always more danger in giving way than in going on. He has no confidence in his troops, and always seems to act under the belief that they would desert if they could get a chance. He therefore, in going into battle, advances his first lines with orders to fight to the death. A little in the rear is a smaller body with orders to shoot down the first man who gives way or attempts to desert. Behind these are still others with orders to bring down any one in front who does not fight to the death, and behind those again are others with like instructions, until at last the threads are all gathered in the hands of Lopez. If in spite of all these precautions a point is carried by the enemy, his unhappy officers who survive are shot and the men decimated. Under this system he has lost at least 100,000 men, probably more than the Brazilians, and yet this system, though it has not left 6,000 able-bodied men in the country, has kept from three to six times as many of the allied forces at bay.

The country, however, is entirely denuded of its male population. All the ploughing, planting, and sowing, is done by women; women must yoke the oxen, do the butchering, and all the other work usually done by men. There are many women also with the army, to do the labor of men, and thus relieve the troops, but none, I believe, are forced to bear arms.

The next news that we shall probably hear from Lopez is, that he has retired with his whole army to the mountains, and that he has driven every man, woman, and child before him. Had not the Wasp arrived till a month later, I have no doubt that I should have been forced to do the same. To the last moment Lopez hesitated whether to keep me a prisoner or not; he wants no one to survive him capable of telling the world of his enormities, and of all those whose declarations have been given in the correspondence lately published, not one will be allowed to escape, nor will any of those persons before whom they were made. For once beyond the reach of Lopez, they would declare that they had never made them, or had made them under torture.

Since arriving in this city I have seen a letter that was brought by the Wasp, evidently written at the dictation of Lopez, in which some details are given of the nature of the plot or conspiracy. This is the first information I had of the kind of plot that had been discovered, and the absurdity of the whole thing convinces me more strongly than ever that there never has been any plot or conspiracy at all.

How long is this war to last? For more than a year and a half I have believed that Lopez would not hold out for two months longer; but I had no idea how slowly some people could move, if they resolutely set themselves not to fight.

With the hope that the war would end shortly, I remained a year longer than I intended, very much against my interest, and suffering great discomfort. I believed that at the final catastrophe I could be of great service, especially to the foreigners, and had Asuncion been taken in February, when the iron-clads went up there, as we then expected it would be, I should doubtless have been able to save the lives of many, who now will never see their native land again. But when all of them had been killed or made prisoners, and nobody, native or foreigner, dared come near my house, and I was utterly powerless to do any service for anybody, I thought it time to obey the orders of my government and return to the United States.

Very respectfully, your obedient servant,

CHARLES A. WASHBURN.

His Excellency Hon. WILLIAM STUART,

Her Britannic Majesty's Minister Plenipotentiary, Buenos Ayres.

EXHIBIT G.

PARAGUAY—DETAILED ACCOUNT OF THE ATROCITIES OF LOPEZ—PREVIOUS REPORTS
CONFIRMED.

ASUNCION, *January 12, 1869.*

DEAR SIR: What shall I write to you? Paper, ink, and letters, are only means for short and incomplete communications, and my heart is so full, I have so much to tell you, there are so extremely many intrigues to uncover, such an incredible complex of Jesuitism, baseness, lowness, falsehood, assassination, all sort of crimes, and badly used governmental skill to bring to the daylight, that I fear it is hardly possible to give to the world the proof of the baseness and the clever play of which we foreigners in Paraguay have been subject these last ten months. It is impossible to do us justice for two reasons—because there are far too many acts of barbarism to be able to mention them; and secondly, they are so nicely and skillfully enveloped and put under the shape of justice and humanity, that we can hardly expect the world to be ready to believe the truth. It would be necessary to discover the motive of all this clever Jesuitical play and assassinations, which the Paraguayan government used during the last year; motives which I cannot explain, and of which I only have the full persuasion that all is falsehood and baseness.

I perfectly understand, and I find it quite natural and logical, that until this moment there are politicians who admire and defend the actions of the Paraguayan government, and condemn these poor sufferers who had to lose their lives, fortunes and honor during the last ten months; but this mistake is only to be excused, as the world knows nothing at all about Paraguayan affairs, and what they believe to know is only a very clever falsehood, which this government understood and spread over the world.

I suppose you know by this time that Asuncion is in the hands of the allied army since the 1st of January, and as I write from that place you will see I have the fortune to be with them. I asked several people about you, and I have learned nothing except some vague information of your having gone to Washington, and what I most deeply lament, and about what I feel very, very sorry, is that I have been informed by several people that you got into difficulties with the United States government about the clever but miserable tricks the Paraguayan government played you. But, my dear sir, I have confidence time will clear all these errors, and if I was in your place I would feel quite easy, and even tell my adversaries that they are perfectly right to condemn you, because they could not do otherwise with the wrong information they only could have, and with the apparently nicely-fitted accusations of the correspondence between you and Benitez. I say that your adversaries have quite wrong information, or, perhaps, better said, no information at all, because I find here, at the very head, people of the allied army, that are entirely ignorant of the extent of cruelties and falsehood to which this place is subjected. I wish to God, therefore, and I hope that soon everything will come to the daylight, and then, dear sir, there could not be a man to blame you; but there are many who are deeply obliged to your kindness, to your humanity, to your good-will and assistance, and, more than all, to the straightforward defense of the principle of right. Until now, I have not seen newspapers, and the information I got about you is very uncertain, so I hope you are all right, and enjoy a better and happy life after so many sufferings.

I will tell you now how I came to the allied army, but I am sorry that I must be very brief, as otherwise I never could finish, because the sufferings, bad treatment, and falsehood to which I had been subjected for the last three months have been by far too many.

You know very well that I have always been very highly estimated by the Paraguayan government and all officials, and it had been so until the 23d of October last year when I was taken prisoner and sent to the army. My imprisonment is another specimen of rudeness—to use the most direct word for such an action—because they accused me of the same dramatic piece of revolution, by means of which spectacle they put out of the way so many innocent people before me. Now, look here, dear sir, how all that came. At the beginning of October arrived very near Asuncion a French and an Italian gunboat, and the consuls took steps to arrange the departure of their respective subjects. At the same time appeared an advice (notice) in the official paper, the *Semanario*, that the Paraguayan government never had put difficulties in the way of the departure of foreigners. I considered this a fine occasion to retire to Europe, and put myself in communication with the Italian consul, asking him to put me on board of the vessel of his nation. After having arranged this, I went to the Paraguayan minister, Luis Caminos, and told him that I should like to retire to Europe, in case the Paraguayan government did not find it inconvenient. I was so happy to be told by the minister that there was no inconvenience at all on the part of the Paraguayan government, and that he would write down immediately to arrange about the vessel and to send me my passport. With these favorable promises, and in the glorious hope to spend a happy Christmas at home, after so many years of privations and sufferings, I went home to my

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country house in Recoleta, full of hope and new plans for the future; packed up my baggage and a few thousand dollars, the earnings of hard work in Paraguay. The next morning, the 23d of October, I went as regularly to Asuncion to arrange everything there for a quick departure, but, incredible to believe, at 1 o'clock I got arrested by an officer and police sergeant at my office, and immediately transported on horseback to the majoria of the army in Las Lomas, near Villeta. All my demonstrations to visit first my house to provide me with clothes and money were useless, and I soon convinced myself that I had to obey my sergeant as blindly as he had to obey his orders.

I must pass over a detailed description of all the sufferings which I had during two months of imprisonment: hunger, thirst, filth, insults, sun, rain, living and sleeping in the open air, with the legs in stocks, without protection against heat and rain. But I must mention more particularly what is called the Paraguayan tribunal of justice.

Twenty-four hours after my arrival in Las Lomas, I was brought by four soldiers under arms to a hut where there were sitting three captains. After a formal inquiry of my name, profession, religion, and nationality, I was told to lay down an oath that all I should say before that tribunal would be the pure truth. After having done this, I was inquired of if I knew why I had been taken prisoner, which question I answered that I had not the slightest idea.

During all this time one of the officers most eagerly studied the *Semanario*; and then afterward left the room and did not appear again.

After having denied the knowledge of the motives of my imprisonment, the speaker of the remaining two captains warned me severely not to go on in that way, and that I had much better confess at once all my guilt, because the tribunal knew everything, and there were more than a hundred proofs against me that I had been one of the heads of the revolution.

There I learned for the first time that they considered me as a partner of that imaginary revolution, of which I knew just as little as all the others who have lost their lives, being forced to state and affirm to have been partners to such a revolution. It is quite natural that such a malicious accusation will put the most deliberate man into a certain state of excitement, and I began to defend myself, stating that I was ready to face any man and any statement against me; but instead of entering into the points of my defense, or only listening to them, I was repeatedly warned to consider that I was not in a grog-shop, or in a billiard-room, or theatre, and that I must not make movements with my hands, nor speak so loud, and that I behaved very badly before the tribunal, and that they had plenty of means to make me speak the truth.

By this time there entered another captain of the name of Goyburu, the only one I knew by name. I was then told that the tribunal had many proofs that I knew all about the revolution, and that I had received money from the Commandante Fernandez to maintain that revolution. I denied both accusations, which caused one of the captains to order a corporal to bring a pair of fetters, which, fortunately, they never put on me. I tried everything to persuade the judges to bring to my face any person, paper, or proof, which could speak against me, but the clever judge assured me that there was no necessity, that the tribunal is perfectly persuaded of my guilt, and that the tribunal never calls a person except he is guilty, to which I answered that, so far as my knowledge goes, a tribunal has a right to call any person, but only to punish the guilty.

With this the examination had an end, and I was advised to regulate my soul with God, because my life would be short, and then I was taken again to my prison, and never saw anything more either of judge or jury.

I have to state that the Paraguayan tribunal was not even furnished with a table, neither pen, ink, nor paper. But you can see, dear sir, that I have been the most fortunate of all the prisoners, because they never put me into fetters, nor did they use me with all the diabolical machines of the times of the Inquisition, with which they pressed out and forced all the other foreigners to confess and affirm that there really had been a plan of revolution, and that all of them had been members of it.

I have now to tell you how I escaped out of this most critical and dangerous position. On the 21st of December we were (about forty of us) prisoners, lying in a retired place in the wood, when the allied army began to make a formal attack on the Paraguayan fortifications in Las Lomas. Early in the morning there came a body of officers and priests to our place, and Commander Marco read a list of about one-third of the prisoners, who had to step forth, and by everything it was evident that there was the solemn moment of what the Paraguayans venture to name an execution of justice. Then the called prisoners formed a circle, Commandante Marco read a short sentence, the priests took them to confession, a body of soldiers took them a few steps into the thicket of the wood, another pause of silence, and a musket volley finished all. It will interest you, dear sir, but deeply afflict you, to know the names of some of the persons of that day's execution. There were among them Don Benigno Lopez, the brother of the President; Barrios, the brother-in-law; the Minister Berges, the bishop, the Portuguese consul, Leite Pereira; Colonel Alen, Captain Fidanza, the very old mother and wife of Colonel Martinez, and the Priest Bogado. We also had as companion-prisoners the sisters of the President and the other brother, Colonel Vincencio Lopez. These were taken and

shut up, each one in a cart, and carried off, I do not know where. People speak here of their also being shot, but I could not assure the truth of it.

The attack of the allied army against the fortifications of Las Lomas lasted in permanent succession, day and night, from the morning of the 21st until the middle of the day of the 27th of December, when the Paraguayan army got entirely cut down, and only a very small remnant took the road to Cerro Leon. During these seven days of tremendous fighting we prisoners always were exposed to the heavy rain of balls, and on the 24th, the celebrated day of the independence of the republic of Paraguay, when we were lying in a long line, during a heavy rain, on the bare, wet ground, and the greatest part of us more than half naked, we had the great fortune to see the President passing close by us. Madame Lynch had the great kindness to remind his excellency of our presence, and the President had the still greater kindness to set us all immediately at liberty, as a gracious act on the most glorious day of the independence of Paraguay—an act for which we all had to thank him forever. Our liberty was not a complete one, because we were put under the charge of an officer near the guard of a new lot of prisoners who arrived that very day, but we could speak freely one with another, and move about a certain small distance from the guard-house.

In this state we remained from the 24th to the 27th, when the allies took, with an assault, the positions of the Paraguayans, which already, by this time, after seven days and nights honorable and brave resistance, were reduced to a very few thousand men. Now the allies came so near to us that everything took to flight under a dense rain of musket balls, every one looking out for himself, and being most eagerly occupied in reaching the next wood. The President, the two generals—Resquin and Caballero—Madame Lynch, a few more officers, and about 90 men of the horse-guards, succeeded in reaching Cerro Leon on horseback, leaving everything else behind. About 1,000 men afterward also succeeded in getting to that place, where the President is fortifying himself with the last remnant of his male population. I had to stop three days in the thickets of the wood, because I had to walk barefooted, in a miserable state of health and weakness, and on the first day I already saw myself entirely surrounded by allied troops, who had occupied all possible outlets. On the fourth day in the morning I went to the Argentine camp of General Rivas, where I first met Colonel Caracar, to whom I am deeply obliged by the kind reception he gave me. From here I was taken to General Rivas, then to the Argentine chief, General Gelly y Obes, and then to the Marquis de Caxias himself. I cannot praise sufficiently the kindness with which these three generals received and treated me. Since the 1st of January I am again in Asuncion, but unfortunately I have to say that I found my house at Recoleta entirely robbed, so that I find myself for the first time in my life poorer than the poorest beggar; not a cent in the pocket, not a shirt to put on, not a single friend to ask for anything, and besides this, miserably sick from suffering, and so weak that I am not able to leave the house. But with the help of God and some newly arrived countrymen of mine, I am able to tell you, sir, now I am getting better every day.

I am very sorry that I must mention here the very sad news which I immediately learned when I arrived at the allied camp, namely, that Lopez, when he took to flight toward Cerro Leon, ordered an adjutant with a list of all the old and new prisoners to be killed wherever they might be found. But we fortunately had hooked it already, and all I know is that the adjutant with his list is taken prisoner by the Brazilians; so I escaped a second condemnation to death.

It will interest you, dear sir, to know who of the Europeans escaped to the allies. Of European prisoners there was only, beside myself, Mr. Alonzo Taylor, and a young Italian by the name of Segunda Wega. Mr. Taylor is on board the English gunboat in Asuncion, waiting for his family which is driven, by order of the government, into the mountains. Of the other gentlemen I know nothing at present. But, besides this, there is Doctor Stewart, gone to Buenos Ayres direct; Colonel Thompson, also gone to Buenos Ayres, but I believe as a prisoner of war; Colonel Wisner, who, with his whole family, lives in his old house in Asuncion. The large list of all the foreigners which had been arrested during the time of you being here, and a few more arrested afterward, do not exist any more; they all died either by hunger, torture, misery, sufferings, or shooting; some of them have been killed by bayonets during the march from San Fernando to Las Lomas, not being able to follow the rest. I am sorry I must also tell you that Mr. Ullrich also got shot, but this case offers something as a proof how false all the accusations on the part of the government have been. They could not help, but had to fall upon him from the moment that they had told you there was still money in your possession belonging to the people who had robbed the treasury. They could not arrest Mrs. Grant, and did not like to arrest Mr. Parodi, that gentleman being of too much necessity to them; so poor Ullrich had to suffer for all. But strange to say, the correspondence in which Ullrich was stated to you to be guilty, bears the date of the 10th; I saw him on the 22d of that month in Ita, when he and everybody else knew nothing about it; and then, when the *Semanario* appeared, when your correspondence about that case was published, then of course they had to bring him to prison and kill him.

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As regards other foreigners, I make the following remarks: Doctor Fox, being in a deplorable state of health, was allowed, about two months ago, to retire to England on the Italian gunboat. Messrs. Twite, Burrel, and Valpy are still with the rest of the Paraguayans in the mountains. The same with the rest of the English engineers of the arsenal. M. Parodi is in charge of the hospital in Cerro Leon.

So far at present. I should feel very much obliged if you would write to me a few lines to inform me how you, your lady and child are getting along. My address will be, for the next few months,

R. VON FISCHER-TREUENFELD,
Care of Don F. W. NORDENHOLZ,
Consul-General of Prussia in Buenos Ayres.

To the late Minister in Asuncion, Mr. CHARLES A. WASHBURN,
in Washington.

EXHIBIT H.

Private letter from Ex-Minister Washburn to Minister McMahon.

BUENOS AYRES, November 11, 1868.

MY DEAR SIR: The circumstances under which I left Paraguay having been of an extraordinary, if not unprecedented character, in the history of diplomacy, and as our government has appointed you as my successor at the court of his excellency Marshal Lopez, I take the liberty to give you certain memoranda in regard to persons and things in that *delightful* republic.

The archives of the legation, such as I did not bring away with me, as also those of the former consulate were left in the house that I occupied, the key of which I delivered into the hands of the Italian consul, Mr. Chapperon. The rest of the archives, consisting of the record books of the legation, and all the official letters received by me, I brought away with me, also the legation and consular seals, and silk flag. All these things that I have brought with me I shall leave subject to your order in the hands of Mr. Worthington.

I also left in my house a large number of trunks, boxes, &c., supposed to contain valuables. They were brought to my house at the time of the evacuation of the city, and left there entirely at the risk of the owners. Their contents are generally unknown to me, though there was one trunk belonging to Dr. Wm. Stewart, that had a large quantity of silver in it, plate and coin, probably of the value of \$5,000 or \$6,000. There was another trunk left there belonging to Mrs. Carmelita Gill de Cordal, having in it some 6,000 patacones (silver dollars) and a large quantity of fine jewelry. There was also a chest containing some 12,000 patacones, left with me by a Bolivian named Lizardo Baca. He was a prisoner at the time I left, and Lopez very likely has seized his money.

In one of the iron safes in the office I left some \$6,000, (patacones,) the most of which belongs to two Englishmen, Dr. Frederick Skinner and Charles Twite, which Lopez would not allow me to bring away, although they were both in his service. I did bring away, however, about \$2,000, Paraguayan currency, belonging to Dr. Skinner. This I shall deliver to your care with the archives to be delivered to him, if you should ever see him. I shall do the same with a small box of jewelry belonging to a Mrs. Lasserre, the wife of a French merchant who was in prison at the time I left. He had some trunks in my house said to contain a good deal of money.

About a year ago I collected from Lopez the sum of \$7,700 (patacones) for one Luis Jäger, who claimed to be an American citizen. You will observe in reading my correspondence with the minister of foreign relations the terms on which that money was paid. Paraguay did not acknowledge that she owed Mr. Jäger more than \$5,200, but would pay the \$7,700, nevertheless, if my legation would be responsible for the return of the \$2,500 if, on further and final examination, it should be found to have been overpaid. I accepted it on these terms, and the \$5,200 was paid to Mr. Jäger, and the balance, \$2,539, has ever since been on deposit in the house of Samuel B. Hale & Co., of this city. I shall give you an accepted draft for the money, to be paid over as our government shall order. There is no doubt that in justice it ought to be paid over to Mr. Jäger, and, when I go to Washington, I will try and get instructions for you to that effect.

Some eight or ten months ago I received from Mr. Augustin Piaggio a draft for 200 gold ounces, which amount I was to pay him in Asuncion, as soon as I received notice that the draft was paid. But I got no notice in regard to it till after I left Paraguay, when I found it had been paid. Mr. Piaggio, however, when I left, was, like all other foreigners who were so unfortunate as to have any money, in prison. I therefore have ordered Messrs. Hale & Co. to pay it on the order of Mr. Piaggio. Should you have a chance to communicate with Mr. Piaggio, will you please advise him of the circumstances.

I brought away \$72 (patacones) belonging to John A. Duffield. I shall send him an order for the same on Mr. Hale. He is an American, and I commend him to your attention, and hope you will try and get him out of the country.

We left many friends in Paraguay, concerning whose fate we feel the most painful interest. To spite us, we fear, Lopez may have robbed, imprisoned, tortured, or shot those known to be our friends. We are terribly anxious to know their fate, and depend on you to advise us. Of all the Paraguayans the family in which we take the most interest is that of the late Don José Mauricio Casal, living, if still in their old home, near the villa of Limpio, some five or six leagues from Asuncion. Both Mrs. Washburn and myself were more intimate with that family than any other, visiting them often and being visited by them in return. One of the sisters came and stayed with Mrs. Washburn for five or six months after her confinement. On leaving, I made a request that my horses, four in number, and cows, of which I had about ten, might be sent out to this family. I am afraid, however, they were not sent, but, instead, our good friends were sent off to the Cordilleras, or were taken in irons to the army, and perhaps the backs of the pretty Conchita and Anita scored with the lash. We charge you, both of us, to inquire particularly about this family, and let us know what became of them. Should the war end and they be left in their old home, you will find their house the most delightful place to visit in all Paraguay.

Another friend in whom we take great interest is the widow Doña Carmelita Gill de Corbal. She lived close by, and visited us very often. She is a sister of the Captain Gill who was one of the heroic defenders of Humaita. Few men living have been under fire so much as he. But, because when he and his handful, surrounded by ten times their number, and literally starving, with no possible chance of escape, surrendered, Lopez has published him as a traitor, very probably confiscated the property of all his family and sent them into exile, or, perhaps, taken them in irons to his headquarters to be shot. That is his style. So he has served many others under similar circumstances. Try and advise us of the fate of our spunky, witty, confidential, Lopez-hating little friend. When the war began she had a husband, who was one of the richest men in Paraguay, and three children. Her husband was taken as a common soldier, and sent into the ranks barefoot, and killed in the first battle in which he took part. Now we fear she has nothing left but her iron anklets.

Mrs. Stewart, the wife of Dr. Stewart, was also a good friend of ours, and a superior woman. Should you ever see her, I hope you will advise her that at great risk to myself I brought away her boxes of jewels and ounces, and delivered them to her husband's brother, George D. Stewart, and, also, the equivalent of the paper money she was kind enough to lend me. I also paid over to him the amount of the silver money she let me have with the understanding I was to place it to her husband's credit in Buenos Ayres. Thus, in spite of Lopez, I have been able to secure her and her family some \$5,000 or \$6,000 beyond the tyrant's power.

Mrs. Capdevila, the wife of Ramon Capdevila, who has been a prisoner most of the time since the beginning of the war, was living, when we left, at Capiata, some six leagues from Asuncion. The French consul, Mr. Cochelet, supplied her with the means to support herself and family so long as he remained in Paraguay. After that I furnished her with all the money she wanted, and on my return to Buenos Ayres her friends have refunded to me all that I expended, and I have no doubt that if you do anything for her you will be also reimbursed. She is a most worthy, unfortunate woman.

When I left, there were but three foreigners of any standing or character at liberty: José Solis, a Spaniard, Domingo Parodi, an Italian druggist, and Ventura Gutierrez, a Porteño. The first was the boss flunkey of Mrs. Lynch; the two latter were friends of ours concerning whom we would be glad to know something. We were under many obligations to the Parodis, and beg you to remember them on our account.

The records will inform you of the case of Major James Manlove, an American, native of Maryland. His arrest was an insult to my legation, if not a violation of its rights. I hope to advise you verbally of the merits of his case before I leave. He was a rebel during the war, but he was an American, and I stood by him, though it cost me a good deal of money and an amount of labor of which you can judge by the length of the correspondence.

We desire very much to send our regards to the mother of the President, Doña Juana Carillo de Lopez. Both she and her daughter, Doña Rafaela, were very kind to us, and let us have some things, otherwise unattainable, that were almost indispensable. I wanted very much to see them again before I left, but could not do it. They were virtually prisoners whom no one could visit. I hope you will try and advise me of the fate of the whole family, including the old lady and her two daughters, with their husbands, and her two sons; also, try and let me know something of Mrs. Lynch and her brats.

Several Englishmen and one German, in the employ of Lopez, sent away their money by me. It was brought down by the Wasp. Lest it might be seized in Buenos Ayres and confiscated I sent it to Montevideo, and ordered it to be delivered to the London

and River Plate Bank, and the part that was to be sent to England was to be forwarded as directed on the boxes, and the rest was to be put to the credit of the owners in said bank. The Wasp charged two and a half per cent. as freight, which was all the expense incurred.

I brought away 20 *onzas de oro* (gold ounces) for Percy Burrel, that I deposited in the London and River Plate Bank. I deliver to you the receipt hand-book.

You will understand that I write now in view of contingencies that may never arise. I take it for granted that after Lopez's insults to me, and his seizure of two members of my legation, you will not have any communication with him till the government has been advised of his conduct, and has deliberately resolved on its course of action. I am confident that our government will never resume diplomatic relations with Lopez. I have denounced him as a common enemy, and have no doubt my course will be approved. But a common enemy cannot long stand against the world. He must soon bite the dust, and my hope is that this ogre may be finished off before he has destroyed all my friends in Paraguay. In that case you may learn something of the condition of those who remain, if any such there be, and the way the others were murdered by the grim monster. It is in view of such contingencies I beg of you to advise me of the fate of some of the dearest friends I have ever known. I never was so anxious to leave a place as I was to leave Paraguay, and I never left a place with so sad a heart. I had the feeling that all who had been particular friends to me and mine were to be put to death—perhaps after torture—for that crime.

But I could do no more for anybody, and the more I defied Lopez the more provoked he was to visit his wrath on my friends, and at the time of the last arrival of the Wasp he was on the point of proceeding to violent measures against me. This fact will appear if any of those persons immediately about him shall escape to tell what they know. But he does not intend they shall escape. His plan is to destroy all the witnesses. I beg of you to see if all I now write is not confirmed, and if you will advise me from time to time of what you may learn I will thank you very sincerely, and reciprocate in any way that I may be able.

Very truly, your obedient servant,

CHARLES A. WASHBURN.

P. S.—Though I have marked this private, it is only to indicate that I do not intend to send a copy of it to the State Department. You are, however, at full liberty, now or hereafter, to make any use of it that may seem expedient or proper. I have written with entire frankness, with the double purpose of advising you of the situation, and of bespeaking your good offices for friends in Paraguay.

His Excellency General M. T. McMAHON,
Minister Resident of the United States, Paraguay.

BUENOS AYRES, November 20, 1868.

DEAR SIR: After your departure from Montevideo Mr. Worthington handed me a communication from you in relation to affairs in Paraguay, containing several commissions upon the part of yourself and Mrs. Washburn, which you requested me to attend to in Asuncion. It will give me pleasure to be of service to you in the way of obtaining information as to your friends in Paraguay.

I will also endeavor to deliver the package of Paraguayan money, (\$2,000,) and the small box of jewels found in the box containing the archives. The letters you inclosed to me I will also deliver if it can consistently be done.

Beyond this you will, of course, understand that I assume no responsibility for private property left in the legation at Asuncion.

Hoping that you had a pleasant passage home, and that Mrs. Washburn has not suffered from her long journey,

I am, very respectfully, your obedient servant,

M. T. McMAHON,
Minister Resident of the U. S., Paraguay.

Hon. C. A. WASHBURN,
Care Department of State.

BUENOS AYRES, 15 Cangallo, January 26, 1869.

MY DEAR WASHBURN: I have much pleasure in letting you know that I am here sound, and for the present safe. I was taken prisoner of war after our complete rout on the 27th ultimo, on the heights of Villeta, where Lopez's headquarters were when you left Paraguay. I had remained too long near the scene of the disgusting carnage, endeavoring with some of our medical staff to move the few wounded who escaped death, (for there was no quarter asked nor given,) towards the wood in the rear; but in

the mean time Lopez sneaked off unnoticed and left us all as he thought to be dispatched by the enemy. He did not halt until he reached Cerro Leon, with two or three followers, as it was impossible for anybody not well mounted to escape through the lines of the enemy; the few sound men who had escaped into the wood remained there four or five days until the enemy retired. Fortunately some cattle had been driven into this wood or everybody would have been reduced by famine. In trying to escape and get off towards Cerro Leon, I was made prisoner and well treated by the Brazilians. We had brought in from Asuncion and Cerro Leon, and from every other place where there were any troops, every available man, but after all we did not exceed 2,500 on the morning before the fight commenced, against 16,000 of the allies. We had only four field-pieces of artillery and very little ammunition, against 80 pieces of the enemy, pouring a continuous fire into us from two-thirds of our circumference. Our position was defended by a trench on one side, but the enemy attacked on our right and left flanks, where we had nothing more than an abatis of branches to hide the few men behind. Headquarters had removed on the 23d into the wood in the rear. The enemy soon took the position on the 27th by a simultaneous attack on all sides, at 6 a. m., but did not until 8 o'clock cut off our retreat in the rear, although more than half of their troops remained inactive throughout the engagement. Mrs. Lynch followed Lopez, but where she overtook him I don't know; Skinner, I think, accompanied her. Lopez is now in the Cordillera above Cerro Leon, (from four to eight leagues distant.) The sick and wounded are at Caacupé, the archives and government at Piribebuy, and the small remaining population of the late republic of Paraguay in the neighboring villages of Altos, Barrero, &c.; but most of the migrating families are bivouacking under the trees.

Lopez issued an order dated December 28, and which you will find in the newspaper, calling everybody up to the Cordillera. Early in December people were ordered to proceed to that part of the country, and none of course dared disobey. Our entire loss in the engagements of the 6th, 11th, and of the 27th December last, in killed, wounded, and missing, was over 15,000 men, 35 chiefs, and 540 officers. Of course, most of those were boys, from eight years old upwards, and many very old men, some of them quite blind. Every male in the country that could be got at was brought down. There were in the hospital at Cerro Leon nearly 6,000 sick and wounded, of whom 1,500 may be now on duty again, or perhaps 500 more may have been scraped together from the partidos. This is all Lopez can possibly have. No guns or small-arms were saved after the last defeat, and they have no ammunition left.

On the 1st instant the Brazilians marched to Asuncion and arrived on the 5th, when they commenced the wholesale sack of the town. I suffered, as usual, severely in this plunder, and I estimate my loss at the lowest calculation to be £2,000, for I had not removed anything from my town house nor from my quinta. I hear there is no hope of obtaining indemnization, although I was delivered to the commander of her Majesty's gunboat Cracker as a free British subject, on the 1st of January, and that property is clearly that of a British subject. Perhaps, however, when this unaccountable sympathy for Lopez is dissipated by the indisputable corroboration of the disclosures of Lopez's barbarities during the last six months, people will think I deserve at least some sympathy for my misfortune.

Already there is a great commotion here since we confirm all you said about that monster, but there are still a few who are ashamed to acknowledge that no further proof is required. Your cause is mine, and I have fought the battle in the very strongholds of personal prejudice and calumny. I have also told Brazilians and Argentines that they are quite mistaken about you, and I tell you that unless they retract and do you justice immediately, I will compel them to do so. I scorn threats as much as applause.

My family and a number of our countrymen are still in the power of Lopez, so I must be prudent in making disclosures yet a while of his atrocities. Is it not most humiliating to the States, and to Great Britain, and to France, and Italy, that Lopez has hitherto succeeded in bamboozling the well-meant efforts of our government, owing to a few young sailor officers who were sent to treat with him, when our ships are riding all the while at anchor in the Plate and in the quiet harbor at Rio? I am confident that it only requires to be known to merit the just censure of public opinion. I have a great deal to tell you, but I would rather not write it. The devil is in our diplomacy. (?) Well, enough of this at present.

Skinner, Valpy, and Burrell are in the Cordillera. Rhind died of phthisis. Fox went away in the Beacon. I asked Lopez if he could send some money to England. He replied, "he can not only send his money, but go himself too, as he is quite useless." I bowed and went away to tell Fox; so he sent his traps on board, and the President was furious when he knew it. You can perhaps imagine how he looked at me. On the 5th instant I met Caverville at Asuncion; he told me he had dined with Lopez above Cerro Leon, on the 29th ultimo; that it was there reported I had deserted to the enemy, &c., but that my family had not yet been made to feel the usual penalty of imprisonment and torture.

After serving Lopez with perfect fidelity for 12 years, here I am alone and in the

greatest anxiety about my wife and children, and having lost a considerable fortune in the war, my misfortune in falling prisoner might excite the pity of any man but Lopez, who chooses to initiate a calumnious charge against me, to have a pretext for sacrificing my family. My only hope is in McMahon, to whom I recommended my family, who accompanied him from headquarters, on the 23d ultimo, and if you have still any influence with your enlightened government, I pray you will ask their interest with McMahon, in behalf of my family. Give my sincere regards to Mrs. Washburn, who was fearfully situated at the same time that Lopez hesitated whether both of you should be made to share the same cruel death with the 500 men and women he sacrificed under a false charge of treason. Among the latest victims were the bishop and the dean, Bogado, General Barrios, and Berges, the wife and mother of Colonel Martinez, of Humaita, Colonel Alen. Taylor, Treuenfeld, Von Versen, several Argentine and Brazilian prisoners of war, escaped from the calabozo when Lopez was routed on the 27th ultimo; most of them horribly emaciated, but all are fortunately in sound mind. Manlove and the American carman, Duffield, were both cruelly beaten, and when they could endure no more they were dragged out on a hide and shot. The same fate befell poor Stark; within a few days of reaching San Fernando he was shot, because he could endure no more cruelty.

There are at present in Lopez's power about 25 Englishmen, and about a dozen Spaniards, French, and Italians; altogether, 60 English, and about 100 French, Italian, German, and Spanish women and children. Besides these, there are about 30 Argentine women and children, and about 50 prisoners of war. All these unfortunate people will die of starvation if the necessaries of life are not sent to them, or if they are not speedily delivered from the revengeful grasp of their destroyer. But with all these facts full in view, the allies are not moving out of Asuncion, nor does any European or American representative in the Plata bestir himself in behalf of his suffering countrymen in Paraguay. Who will be blamed for it when it is proved that hundreds of precious lives might be saved by opportune interference? Probably nobody.

Of the 250 prisoners who marched from San Fernando for Villeta, only three are now alive. All who could not walk were lanced; and I fear the same tragedy will be continued in the Cordillera.

You are no doubt aware that the French consul's behavior is criticised very severely, and that M. Noel has gone up to Asuncion, where Cuverville is with the French consulate! Chapperon is with his family in Campo Grande. What can be the meaning of these men leaving Lopez just now? McMahon is with Lopez perhaps because he thinks he may prevent him from committing wholesale murder of the foreign residents. I am going to England by the mail which leaves Montevideo the day after to-morrow. George Thompson goes along with me.

I almost forgot to tell you that McMahon delivered your message about the box which you were not allowed to bring away with you, and which was my property. I have been able to learn nothing about it, although I went to your house with Mr. Chapperon to search for it. I found my wife's trunk, containing clothes, and another small portion of patacones. The missing box contained 200 pounds of silver plate, a few gold ounces, \$4,000 paper currency, and some title deeds. Our property has completely disappeared, and nothing remains but two or three sacked houses, and some leagues of land, which at present are entirely unproductive.

While so many of my countrymen, and particularly while my family remain in the power of Lopez, I dare not appear in print, so you must do me the favor not to publish this letter, nor permit my name to be mentioned.

The mail is closing, so I defer the communication of other interesting facts until I reach England; and wishing yourself and Mrs. Washburn a pleasant sojourn in your native land, I remain, in haste, your sincere friend,

WM. STEWART.

WASHINGTON, D. C., April 12, 1869.

PEIRCE CROSBY, captain of the United States navy, sworn and examined.

By the CHAIRMAN:

Question. Have you read the memorials referred to this committee in regard to Paraguayan matters?—Answer. I have not read all of them.

Q. State to the committee what you know in regard to these matters.—A. I received these orders (Rio de Janeiro, dated 21st July, 1866,) [annexed to testimony, marked A 1.] to prepare for service up the river, and acknowledged Rear-Admiral Godon's letter of July 21, 1866, on August 1, 1866. [Letter annexed to testimony, marked A 2.] I reported the Shamokin ready on August 16, 1866, in obedience to his order. [Letter annexed to testimony, marked A 3.] I then wrote to Rear-Admiral Godon, United States navy, [annexed to testimony, marked A 5.] notifying

him of the minister to Paraguay being at Buenos Ayres and expecting to go up the river to Asuncion in the Shamokin. I mentioned this fact, as I wished if such was the case to prepare accommodations and mess arrangements for him and his family. I also wished to consult and get some instructions in regard to the torpedoes and obstructions which were in river Paraguay, and had been there since my arrival on the station in the spring of 1866, as they might render it impracticable to go to Asuncion in the Shamokin. Rear-Admiral Godon acknowledged my letter, but made no allusion whatever to my taking Mr. Washburn. And as he had not deemed it necessary or proper to advise me what the nature of my duties would be, I considered that it would be presumptuous on my part to ask him any questions, and therefore determined to await patiently for orders and then to obey them. Rear-Admiral Godon merely replied to my letter in which I made mention of Mr. Washburn by advising me to continue holding myself in readiness for service up the river. [Letter annexed to testimony marked A 6.] Believing, however, that I would be ordered to take Mr. Washburn and family up the river in the Shamokin, I took the responsibility and precaution to put up state-rooms in my cabin [see letter annexed, marked A 2½,] and be all ready the moment I received orders. I also laid in a supply of provisions, &c., and kept myself ready in all respects for whatever duty might be assigned me, and waited in this way some weeks, when I received these instructions from Admiral Godon to take Mr. Washburn to Asuncion, upon his application in writing. [Annexed to testimony, marked A 10.] I also received a private note from Admiral Godon, which, I see in his letters to the Hon. Secretary of the Navy, Mr. Welles, he mentions as a semi-official note, and says in it he directed me not to regard the protest that would be made by the Brazilian admiral in command of the forces up the Paraguay. The semi-official note mentioned in Admiral Godon's dispatches was not a semi-official note, but was a private note, and so considered by Admiral Godon at the time he wrote it, as he wrote upon it the word *private* and merely directed it to "My dear Captain," and signed himself "S. W. Godon," without even giving his title. Here is the original note, [annexed to testimony, marked A 11,] which I considered as merely giving Rear-Admiral Godon's private views of matters, and did not consider it an order in any way, nor did I consider myself bound to obey his directions in that note or that it relieved me from any responsibility, but left me to obey his orders to take Mr. Washburn and family to Asuncion, on his application in writing, according to his order of October, 1866, and not to delay my journey; ignoring entirely in his official letter and order to me any difficulty or obstructions that I might encounter.

I cannot understand why Admiral Godon, when, as he says, he was informed by certain officials in Brazil that a protest would be made to the Shamokin's going through the blockade on the Paraguay, did not so inform me in his official communications, and give me positive orders not to regard them, but to go on until the Brazilians stopped me by force. Rear-Admiral Godon does not even mention the protest in his order to me, but says in his private note that it is known that orders have been sent to allow the Shamokin to pass; that "a *protest* by the blockade need not be regarded—nothing but absolute *force* should prevent you; however, if the river is *too low*, then you cannot go up *now*—go as high as you can, and wait till the waters rise. Rosario would be a good place to remain at till you can go up." With these instructions I sailed for Asuncion, with Mr. Washburn and family on board, and arrived at Corrientes November 2, 1866, and reported my arrival to Rear-Admiral Godon, and that I would go on up the river on that day. [See letter annexed, marked A 15.] On the same day I arrived at the mouth of the Paraguay river, [see letter dated November 3, 1866, annexed, marked A 16,] and was there boarded by the Brazilians blockading there. I informed them of the nature of my duties, and received in reply that no instructions whatever had been received regarding Mr. Washburn's going up, or the Shamokin taking him up. It was then dark, and I had anchored. I informed the Brazilians that I should go on up in the morning, and wished to communicate with the admiral immediately. I sent a letter informing him of my duties, [letter annexed to testimony, marked A 23½,] and received in reply by my officer bearing dispatches, as well as by the Brazilian admiral's officer, that he, the admiral, had received no instructions regarding the Shamokin and Mr. Washburn; also, that he would call on board to see Mr. Washburn and myself about Mr. Washburn's going up. On the following morning Admiral Tamandaré arrived on board. I received him and conducted him to my cabin, where he and Mr. Washburn and myself entered into conversation regarding our passing through the blockade. Admiral Tamandaré said most positively that he had not received any instructions whatever regarding his allowing Mr. Washburn's going up in the Shamokin, and was assured by Mr. Washburn that he had been informed that instructions had been sent; but notwithstanding this, Admiral Tamandaré said he could not consent, but was anxious that Mr. Washburn should go up in their vessel. Finding that Admiral Tamandaré was endeavoring to prevent the Shamokin going up with Mr. Washburn, I determined to oppose him, believing that it would meet with the approval of my government, and told him that I had received peremptory orders to take Mr. Washburn to Asuncion on board the Shamokin; that I would do so unless prevented by absolute force. Admiral Tamandaré

became very much excited at this decision, and remarked on my taking the grave responsibility, and then consented, under protest, to my taking Mr. Washburn up in the Shamokin, and requested me to give my reply to him in writing, which I did. [See letter annexed to testimony, marked A 24.] Admiral Tamandaré was certainly placed in a very awkward and embarrassing position, regarding the Shamokin's going through his blockade with the United States minister on board, as he says he had no instructions whatever from his government concerning her or Mr. Washburn. I too was placed in a very delicate position, but knowing that my government was impatient on account of the difficulties thrown in the way of Mr. Washburn's getting to his post by the allied forces, and was determined that he should go, and as Admiral Godon had not alluded to such difficulties as I might encounter, or given me orders to meet them, but leaving me to act on my own responsibility, I decided to go on. Admiral Godon directed me in his orders not to delay my journey. This would lead one to suppose that he did not expect that I would meet with any serious difficulty, but was merely intended that I should not make delay or stoppages other than would be necessary under ordinary circumstances in going up and down the river. Yet in his private note, which he calls a semi-official note, he says to the Secretary of the Navy that a protest would be made, (see Admiral Godon's letter published, dated Montevideo, December 10, 1866, No. 132, Ex. Doc. No. 79,) and that he had instructed me to disregard it. Now, had Admiral Tamandaré opposed me, and had taken the responsibility of firing into the Shamokin, and had prevented me by force from going through the blockade, Admiral Godon's instructions to me were such as would have shielded him from the responsibility of my act, as he conveys the idea in his private note that he supposes instructions had been sent, and at the same time his orders were such as would not have saved me from his censure or that of the government, had I delayed my journey until I could hear from him, or learned that orders had been received from Admiral Tamandaré to allow the Shamokin to pass under protest.

After Admiral Tamandaré consented under protest to the Shamokin's passage, before starting, I with his consent sent Mr. Pendleton [see his report marked A 18, annexed,] a bearer of dispatches to Lopez, concerning our going up to Asuncion to arrange about pilots. After this officer returned and all was ready, I passed up through the Brazilian lines and landed Mr. Washburn and family at Curupaiti, the first fort on the river on the Paraguayan side, and about one mile above the Brazilian forces. As Mr. Washburn and family and baggage had to be landed there, and as the Shamokin was directly in the way of the line of fire of the combatants, and hostilities having been suspended only a few hours for us, I deemed it improper to remain longer than to land Mr. Washburn on the bank and return immediately outside of the Brazilian blockade. I was fully under the belief until I anchored [see letter annexed, marked A 17] that the Shamokin would go far enough up the river to be beyond the batteries of the allies, where I could lay within the Paraguayan lines and wait for any documents Mr. Washburn would have to send back. I was but within a ship's length of the anchorage when I received the first intimation from the pilot to anchor. I remonstrated against anchoring there, but received answer that such were the orders of Lopez, not to take the vessel further, that the Shamokin was then within about 20 yards of torpedoes, and she would be in great danger to go further up. As everything had to be hurried to get back before dark, and Mr. Washburn wishing to send dispatches to his government, and not having any one with him beside his wife and female servant, and all his baggage and stores lying on the river bank, I consented, at his urgent request, to let Mr. Pendleton remain with him and bring down the dispatches which he had to write. As the Shamokin was in Paraguayan territory as a right, and not with the permission or consent—except under protest—or as a privilege granted by the Brazilians, I did not believe that my actions were to be directed by the Brazilians, but that I had the perfect right to leave an officer if I chose to do so for the purpose intended, without consulting the wishes of the Brazilians, and I also considered that the American minister had the right to send this officer as bearer of dispatches for the government of the United States back through the lines to the Shamokin. Indeed, I could not see any sensible or reasonable objection to doing this, that is, to allow this officer to remain for dispatches. If any one with reason could have objected, it would have been President Lopez. As will be seen, however, I returned outside the blockade and sent a note to Admiral Tamandaré, notifying him of the officer having been left, and requesting his permission to return to the Brazilian lines, as will be seen by the accompanying document, [annexed to testimony, marked A 26.] The officer returned. [See his report annexed, marked A 19.] Admiral Tamandaré made a long protest against it, [annexed to testimony, marked A 28.] Having been defeated in preventing the Shamokin going up, he caught at this chance to make a serious point of it, but even in that he has failed, as I have never heard of the matter since, and Rear-Admiral Godon in his communication to the Navy Department alludes to it by saying there does not seem to be any point in it. [Letter 132, printed, Ex. Doc. —, headed "South Atlantic squadron, U. S. flag-ship Brooklyn, (2d rate,) harbor of Montevideo, December 10, 1866."] I did not answer Admiral Tamandaré's protest, as I did not receive

it until I had returned to Buenos Ayres, but forwarded a copy of it to Rear-Admiral Godon. Unfortunately, on my way down the river to Buenos Ayres a steamer ran into the Shamokin during the night, damaging the Shamokin seriously and herself too, so much so as to cause the other steamer to sink, after great exertions to keep her afloat. At my request a court of inquiry was held upon the case, and I was exonerated from blame, as facts proved I had saved my own vessel, and that the collision was caused by the bad management of the strange steamer. To repair damages to the Shamokin I went into the Lujan river, 20 miles distant from Buenos Ayres. Shortly after this, Rear-Admiral Godon arrived in the Wasp. I will here mention that several days after landing Mr. Washburn in Paraguay, and when about 600 or 700 miles down the river, near Rosario, I received from a Brazilian transport this document, [marked A 20, annexed to testimony,] in which Rear-Admiral Godon says I did not allude in my former letter to torpedoes or other difficulties that you might encounter. As this letter is among his published official dispatches to the Secretary of the Navy, and appears as one which I was supposed to have received, and to have had as my guidance and instruction, I will here state that it did not reach me until some days after my mission up the river had been executed, consequently had no effect upon my conduct. Had I been furnished with this letter at first, I should not have considered myself authorized to pass the Brazilian blockade under the circumstances which I did. When the Wasp anchored in the Lujan river, near the Shamokin, I went on board to report and pay my respects to Admiral Godon, when he questioned me about my trip to Paraguay and my mission generally. He reprimanded me for allowing Mr. Pendleton to remain to bring down dispatches, and asked me why I had done so. I explained to him the circumstances, and he became angry, and said, "do you think a minister is of great importance?" and was greatly provoked because I did not agree with him that I was wrong in leaving Mr. Pendleton within the Paraguayan lines as I have stated. He also said that it was for this very reason he wrote that note to me, "giving my opinion of Mr. Washburn, in order to put you on your guard, and not to allow yourself to be influenced by him, but to trust to your own common sense." It was previous to this that Admiral Godon asked me if Mr. Washburn had paid me his expenses for taking him up—that is, for his mess bill for himself and family. I replied to him by saying that Mr. Washburn had offered to pay the expenses he put me to for taking him up, and had given me a check for 16 ounces in gold, equal to about \$250, but that I would not accept it and tore it up. Rear-Admiral Godon said to me in his private note that Mr. Washburn must pay his own expenses, but he said nothing in his private note about making or asking what accommodations I had for him and family, although he must have known that they were very poor and limited. The naval regulations give full instructions about ministers paying their own expenses, and I was fully aware of it because I had read them, and as the money came out of my pocket and not out of the government, I considered it my privilege to treat my guest with all the hospitality that I chose to, without being responsible to Rear-Admiral Godon. I also considered it very indelicate and impertinent, under the circumstances, on the part of Admiral Godon to ask me such a question, as it was evidently not done with the desire or interest that he felt in Washburn's welfare or wishes to learn that he had been treated with kindness and hospitality, nor for his interest in my purse, but with the evident hope that I had made Mr. Washburn pay his full proportion for all he had received, as he gave no expression of pleasure when he found I had been so hospitable to Mr. Washburn, but by his silent reception of my answer was evidently disappointed, and impressed with the fact that I had not been influenced by his private wishes, nor had lowered myself in any manner to commit a sordid act.

On the day that I received Mr. Washburn and family on board and left for Asuncion, Paraguay, I was suffering intensely from neuralgia and had been confined to my bed several days, but went on deck to receive Mr. Washburn, and through my sickness and having my attention drawn to other matters concerning the ship I entirely forgot to write to Rear-Admiral Godon, who was then at Rio Janeiro, and inform him of my having received Mr. Washburn and family on board, and having sailed for Paraguay. Rear-Admiral Godon censured me severely for this, and, as I laid myself liable for this oversight, I expected that he would make the most of it and censure me. I cannot remember whether it was on this same day or the day following that I was on board the Wasp, and talking with Admiral Godon in the cabin regarding this Paraguayan business, when he asked me something about the private note. He wanted to see it. I told him that I did not know exactly where it was, but it was somewhere among my papers, I thought. He then said something to this effect: "Is that the way you keep your papers?" I do not remember my exact reply, but it was in a very respectful manner. Shortly after this, I went out of the cabin in company with Admiral Godon, and was talking with him, when he noticed that the forward awning of the Shamokin was furled, and it was very hot, the sun shining brightly, and he called my attention to it. I found after I went on board that the armorer was using the forge directly under it, making bolts to repair the vessel with, and was making other iron-work; besides, there was plenty of shade for the men under the other parts of the awning and hurricane-deck. I replied in a very respectful manner that I had given orders to Mr. Spencer, the execu-

tive officer, to have the awning spread every day, according to squadron orders. Rear-Admiral Godon then said: "I would take damn good care to have the awning spread over my own head," and then spoke, in a voice loud enough to be heard from one end of the ship to the other: "Go on board your ship, sir, and have your awning spread." I left Admiral Godon, without making any reply, to go on board and obey his orders, and when I got to the gangway he called out to me to "send your cockswain to tell the executive officer to do it." I replied I would go myself, and left his ship, as I did not wish to subject myself to his coarse and ungentlemanly conduct, and to have my feelings outraged by him. I was of course very angry and indignant at his conduct, but made no reply, as I intended to report him to the Secretary of the Navy, Mr. Welles. Although I doubt, from what I have seen in the case of Commander Wells's treatment by Admiral Godon, and his inability to get satisfaction from Mr. Welles, the Secretary of the Navy, that I should have fared any better. On the afternoon of the day of this ungentlemanly and unofficer-like conduct of Rear-Admiral Godon, he called alongside of my vessel, in the company with Commanders Kirkland and Marvin, to go on shore with them to take a walk. I went to the gangway, and Admiral Godon requested me to go with him. I respectfully declined. He repeated his invitation, and I declined a second time. Commander Kirkland then asked me to go, but I declined again. They then shoved off from the Shamokin and went ashore. I learned from Commander Kirkland, afterwards, that Rear-Admiral Godon was very angry on account of my refusal to go with him in his boat on shore, and I can well believe that he was, as his treatment to me *was* in the presence of these officers and men in his boat, and my refusal to accept his advances to me was also in the presence of the officers of my ship and of those who were with him in the boat, and he, no doubt, was much mortified when he found that he could not act towards me as he had done, with impunity, and found that I meant to resent it. Shortly after this, I had occasion to send Rear-Admiral Godon some official communications. They happened to be sent on a Sunday. Some of these dispatches he received, but through a spirit of malice, and to treat me with disrespect, he returned the others through his fleet-captain, in company with this note: [annexed to testimony, marked 64.] I will here mention that I had not violated any orders of the service or squadron regulations, nor was it inconsistent with the religious feelings of Rear-Admiral Godon to receive them, as he allowed a dancing party to be given on the Wasp on the following Sunday, and he was present, which was certainly a direct violation of the Sabbath, and there was no reasonable objections whatever that the documents referred to remained in his secretary until the following day. About this time Rear-Admiral Godon went to Buenos Ayres, and remained several days, and returned on a Saturday. I passed him in the river Lujan, within 10 yards of him, and saluted him in passing. He said nothing to me, and I continued on, as I was invited to dine with a Spanish family on shore. Shortly after Admiral Godon got on board his vessel he made signal for me, but I was on shore, and the executive officer went in my stead. On my return he informed me that he had gone to see Rear-Admiral Godon, in obedience to signal, but not understanding that it was for me particularly, I did not go to see him. The following evening I received a message, through the pilot, that Rear-Admiral Godon wanted to see me. I immediately went on board to see him, and he asked me about the ship, and when she should be ready, and I told him. This I had already reported to him in writing, I believe. He then asked me, in the presence of the ladies who were then on board, at the dancing party referred to, why I had not been to see him. As I did not wish to give my reasons in the presence of the ladies I did not answer him. He then gave me some orders relating to getting the ship afloat, as she had been lying on a mud bank, repairing. And I then left his ship and went on board the Shamokin. On the following day—it was, I think, in the morning—I got under way, and was passing the Wasp, drifting and working by her. As the river was very narrow and difficult to pass her it was necessary to go slow; when within about 60 feet of the Wasp, my attention was directed by some one calling out, "Back her," but not supposing it was intended for me—as that was not the tone or manner a gentleman would speak to another—I paid no attention to it, but was looking attentively at my vessel, when, almost immediately after I heard some one call out in the same offensive and ungentlemanly manner, "Back her; do you hear?" Knowing that it was intended for me, and recognizing Rear-Admiral Godon's voice, I turned around and saw that it was Rear-Admiral Godon, standing on the wheel-house, in an old gown. I answered him, and obeyed the order.

After this I went to Montevideo, and in obedience to Rear-Admiral Godon's order, I called to see him on board the Wasp, as he too had gone down in her to Montevideo. But as he could not attend to me then, he ordered me to see him on board the United States steamer Brooklyn. I called accordingly, when Rear-Admiral Godon commenced and found fault generally as regards my taking Mr. Washburn to Paraguay, although I had done my duty faithfully, zealously, expeditiously, and creditably. Rear-Admiral Godon could not find enough generosity in his bosom to say that he was pleased at my having successfully accomplished a difficult journey and fulfilled a delicate mission. At the time I received instructions to take Mr. Washburn to Paraguay I was at Montevideo, and was detained there by duties, and as I received orders to take Mr. Washburn

on board, on his application in writing, I quoted that part of my instructions, and sent the letter up by the mail steamer, so that he could make his preparations. [Letter annexed to testimony, marked A 13.] I had a letter for him from Rear-Admiral Godon, but kept it to deliver in person. Rear-Admiral Godon wrote to me inquiring why I had given Mr. Washburn a copy of his order. I replied, as is stated in this letter, [annexed to testimony, marked A 23.] But this did not seem to satisfy him, and he again questioned me about it, and I told him that Mr. Washburn was anxious to get off, &c., and I then asked him how Mr. Washburn was to know that he was to make his application in writing, and that I was to take him when he did so? Rear-Admiral Godon said that he did not care whether he knew or not; he did not care how long he staid there, and then said by my writing I had defeated the very object that he was trying to accomplish. What that object was, Admiral Godon did not state to me. Rear-Admiral Godon forgot that he had written to me in his private (would be semi-official) note saying, "I have written him to inform him of my order to you, and to tell him to apply to you in writing." Now, I cannot see what object Rear-Admiral Godon had, or what objections he could have, to my writing to Mr. Washburn what I did, except it was to get me into his power if he could, and to persecute and annoy me on account of my kindness to Mr. Washburn; and because I did not equal Rear-Admiral Godon in his conduct toward Mr. Washburn. He then spoke of Mr. Washburn's written application to me, and said it was not a proper application; that it was not respectful; that he felt ashamed to send it to the Navy Department; that I ought not to have received it. [Application annexed to testimony, marked A 14.] He then said, "It looks very much to me as though you were acting in concert with Mr. Washburn, and could not even wait to get to Buenos Ayres to see him, but wrote, the very moment you received your instructions, to him to notify him of the fact;" and then spoke of my not notifying him of the sailing of the Shamokin with Mr. Washburn, and said it looked very much as though I was hurrying off from Buenos Ayres for fear that I would receive orders countermanding those I had received to take Mr. Washburn up. He then said that Mr. Washburn had not complied with the instructions he had received from the State Department, and that I had no right to take him up at the time I did, and wanted to know if I was not aware of it—if I had not read his instructions, as though I was to judge of Mr. Washburn's conduct. I considered that Mr. Washburn was fully capable of attending to his duties, and was so considered by the Secretary of State, and that my duties were merely to obey the instructions I received from the admiral or Secretary of the Navy, and not to tell Mr. Washburn his duties. Rear-Admiral Godon also said that he, Mr. Washburn, had spoken to him about bringing Lopez out of Paraguay with him, and for that reason he had not furnished him with a steamer before; also, that it was on that account that he gave me such positive instructions regarding neutrality, letters, Lopez, and other persons. He also told me that Mr. Octaviano, the Brazilian minister, had said to him, that papers with Mr. Washburn's name on them had been found at Corrientes at the time the city was captured by the allies, and that these papers show that certain moneyed transactions regarding arms had been going on between Mr. Washburn and the Paraguayans, which implicated Mr. Washburn, but that he, Octaviano, did not wish to make such a statement to our government, and that this was one of the objections on the part of the Brazilians to Mr. Washburn's going up to Paraguay, as they supposed he was assisting Lopez. Rear-Admiral Godon spoke again about my allowing Mr. Pendleton to remain in Paraguay to bring down dispatches, and argued as one of the great objections to his remaining, that he might have deserted and remained in the Paraguayan territories, and in such a case that the Brazilians could never be convinced that it was not intentional on our part to leave him there. I regarded such reasons as frivolous, as the officer was a married man, anxious to resign and return to his family, besides being a man of high character, and had already been into the Paraguayan lines as bearer of dispatches, as will be seen by his letter, A 18. The whole truth of the matter is, that Admiral Godon was disappointed that I had succeeded so well in getting Mr. Washburn into Paraguay, and was chagrined that I had not acted towards Mr. Washburn in the same spirit that he had done. I must say that I felt great pride and interest in taking Mr. Washburn through, as I had heard of a great many comments upon Mr. Washburn's detention, and it was the common talk in Buenos Ayres among the people; and the American minister, Mr. Washburn, was certainly placed in a very humiliating position. The papers constantly referred to it, which made it very unpleasant, and they predicted that the Shamokin would not be able to get up to Paraguay. The American citizens at Buenos Ayres expressed their mortification about it, and even offered Rear-Admiral Godon the coal to take him up if necessary. After Rear-Admiral Godon had found all the fault he could with me regarding the Washburn trip, he again asked me why I had not been on board to see him. He said if I had any report to make about him, I had better do it, and that he would forward it; but he did not think I would make much out of it. Now, I had not even insinuated to Rear-Admiral Godon that I intended to, or thought of, reporting him, but his own guilty conscience told him that he had violated and outraged my feelings, and that he had done so under the cover of his rank; and that I have no doubt that he felt ashamed of his ungentlemanly con-

duct, knowing that he had committed himself, and wished to smooth the matter over in order to prevent his being exposed to the Navy Department. I replied to him by saying that I had not been to see him on account of his treatment to me; that he had spoken to me in a manner that I was never spoken to before by any officer that I had ever served under during my long service in the navy; that I required him to treat me with respect; that I was a gentleman, and that he must treat me as such, and that he had not acted as a gentleman should act towards another, and before I would submit to his conduct or treatment, I would leave the navy. I was very angry at the time I replied to Rear-Admiral Godon, and spoke accordingly, and he understood what I meant. Rear-Admiral Godon then apologized to me, saying that he was under the impression by my manner that I had intended to treat him with disrespect on several occasions, and then cited several instances, and that he had noticed these things, and that they were in his mind, and when he gave vent to his feelings, everything came out at once. He also spoke of his long acquaintance with me, and of the kind feelings he had had, and I thought at the time that he was sincere, and told him that I had no idea of treating him with disrespect, as I had always been careful to be polite and respectful on all occasions. After this interview, which was sought by Rear-Admiral Godon, and not by me, he changed his course entirely. He gave me verbal orders to report to him daily when in the same port, which I did, and he seemed anxious to be very civil to me. Although I overlooked his former conduct to a certain extent, but I did not entirely change my opinion of him. Shortly after this interview he visited the Shamokin for the first time while on the station to inspect her, and made, as I afterwards found out, a very unfavorable report of her to the Navy Department, which he was careful to conceal from me, thereby violating the navy regulations, as they require that every adverse report should be given to the officer commanding the vessel, against whom the report is made, in order that he might explain or reply to it. Rear-Admiral Godon did not do this, but kept his report a secret from me. I would here remark, that the change of the admiral's conduct towards me after this interview was remarked upon by Lieutenant Commander Kirkland, and he told me that Lieutenant Commander Marvin also remarked it, and that he did not know the cause of it; that the admiral had dropped me like a hot potato.

Q. What do you understand to have been the reason of the objection or hesitation or reluctance on the part of Admiral Godon to send Mr. Washburn forward?—A. I do not remember that Admiral Godon ever said anything to me about Mr. Washburn before I received these instructions.

Q. And you know nothing of his motives?—A. Nothing more than I have already stated.

By Mr. ORTH:

Q. How did he speak in your presence of American ministers as a general thing; favorably or unfavorably?—A. I could not state anything more on that point than to repeat what he says in his private note to me which I have read. When he was asking me about paying Mr. Washburn's expenses, he remarked, "you seem to think a minister is of great importance."

Q. What was his manner in uttering these words?—A. He said them in a contemptuous way.

Q. Did he use any other expression showing considerable feeling at that time, or any other time, in regard to our foreign representatives?—A. I do not now recall any other remark of that kind.

Q. You heard the testimony of Governor Kirk this morning in which he referred to a remark of the admiral that an American minister was merely the representative of a political party; did you ever hear him making a remark of that kind in connection with this matter?—A. I cannot call to mind any such remark at this moment. Admiral Godon said a great deal in regard to the matter in that way, but I can only give you general impressions.

Q. Did you go down with Admiral Godon's squadron from here?—A. No, sir; I joined the squadron in the early part of 1866, at Rio. He was then at Montevideo; my ship was in very bad condition, and was detained at Rio two or three months for repairs as I recollect; I cannot speak positively as to dates. After that I went down to Montevideo and there met Admiral Godon.

Q. When did you and the admiral go to Buenos Ayres?—A. I remained at Montevideo about two weeks in company of the admiral, and arrived at Rio Janeiro about April or May.

By the CHAIRMAN:

Q. What was the strength of the admiral's fleet during the spring and summer of 1866?—A. He had the Brooklyn, a steam sloop of war, the Nipsic, the Shawmut, the Wasp, and the Kansas, in addition to my own.

Q. What duty were they engaged in during the season of 1866?—A. The Shamokin and Wasp were lying in the river at Montevideo or Buenos Ayres; the Kansas was also there a greater part of the time. The Brooklyn was a part of the time in the river

and part of the time at Rio. The Nipsic was cruising about the coast. The Shawmut returned to the United States about May of that year.

Q. What is the distance between Montevideo and Buenos Ayres?—A. About 100 miles.

Q. What were they doing—meaning the Shamokin, Wasp, and Kansas?—A. I was there as senior officer a great part of the time, and sometimes the Kansas was down there.

Q. Was there anything to prevent Admiral Godon sending a vessel to Paraguay with Minister Washburn at any time during the spring, summer, or autumn of 1866?—A. The Wasp was there, and the Shamokin was there; he could have sent either of these vessels at any time during the spring or summer of 1866.

Q. Would it have endangered the health of the United States officers or crew to have gone up the Paraguay with Mr. Washburn during these months.—A. I think not. The Shamokin was about two weeks on the trip going up and down. There was nothing in the climate to endanger the health of the officers or crew. They all enjoyed it very much and were not sick at all.

Q. Then the apprehensions of the admiral were groundless in that regard?—A. There was no sickness in the river that I remember. There was none at all on board my vessel.

By Mr. ORTH:

Q. Did you have plenty of fuel?—A. I had.

Q. Where did you get it?—A. I filled up with coal at Buenos Ayres before starting, and replenished at Rosario, about 300 miles distant. The squadron obtained fuel at Rosario. I could also have obtained coal at Corrientes, and at Parana.

Q. Did you accompany the admiral in his visit to Urquiza?—A. I did not.

Q. Where were you at that time?—A. I was either at Montevideo or Buenos Ayres, I do not remember which.

Q. You knew of this visit?—A. I remember his making a visit at that time. I remember Mr. Kirk speaking to me about it.

By the CHAIRMAN:

Q. Where was the general depot of coal for the South Atlantic squadron?—A. At Rio Janeiro. I also purchased coal at Montevideo and Buenos Ayres. Montevideo is a coaling port where there is always a large supply on hand, and where the United States vessels got their supply when in the river. I also purchased coal at Rosario, 300 miles up the river, and at Corrientes when I was at that port.

Q. How much additional coal would it have required to have taken your vessel up the river more than to have lain still?—A. I consumed no coal while lying still, except for condensing water.

Q. What would be the consumption of coal for such a trip?—A. I consumed about 200 tons from going up and down.

Q. What did you have to pay for the coal there?—A. Nineteen dollars per ton at Corrientes. I have obtained coal at Montevideo for about \$13. I have purchased coal at Buenos Ayres at various prices, ranging from \$19 to \$30 per ton. At Montevideo I could have got the coal at \$13 a ton, which was only 100 miles distant and would have filled up fairly, but my orders were to fill up at Buenos Ayres; \$13 is the regular price for supplying United States vessels by the coal agents at Montevideo.

By Mr. WILLARD:

Q. Which consumed the most coal, the Wasp or the Shamokin?—A. The Shamokin.

Q. How much more?—A. I might safely say 50 tons more for the trip.

Q. Was there any expense attending your trip except that of fuel?—A. None other.

Q. If you had received at any time a direct order to facilitate Mr. Washburn on his way to Paraguay would the want of coal be any obstacle in the way?—A. Not the slightest; I had no trouble at all about coal. At times coal was scarce up the river, but I never thought of that as a serious objection. Montevideo is the general depot for coal. There is always a large supply of coal there. I have here a letter among the papers appended to this statement written at Buenos Ayres, 100 miles off, on that subject. At any time within a couple of weeks, at the farthest, you could get all the coal you might wish at Buenos Ayres.

Q. So you considered that excuse as amounting to nothing?—A. Nothing at all.

By Mr. WASHBURN:

Q. You say the Shamokin consumed more coal than the Wasp; do you know why the Shamokin was sent in preference to the Wasp? Was there any excuse except that the admiral before the arrival of the Shamokin had refused to send the Wasp on the ground that she would not carry coal enough to take her up?—A. I have my own private supposition on that subject. I do not speak from any knowledge I have. The Wasp was built in England, and ran the blockade to our coast. She went from here,

touching different ports, to Montevideo, and she has brought Mr. Washburn down from Paraguay since that time, and prior to that she went up to carry dispatches.

Q. And you say that Admiral Godon afterwards sent her up to carry dispatches for Mr. Washburn?—A. He did. I do not know whether the extra coal was carried on deck or below, but he had arrangements made for extra coal. These steamers in the merchant service always carried extra coal on the spar deck. It was much easier for the Wasp to go up than the Shamokin, as she drew two feet less water; a vessel of her class drawing six feet could go up at almost any time of the year; but in a dry season the Shamokin's draught of water—eight feet—would prevent her getting over the bars.

Q. Did you not understand from your private letters and other sources that it would have been more agreeable to the admiral if you had not succeeded in getting into Paraguay with Mr. Washburn?—A. I hardly know how to answer that question. I have submitted to the committee all the letters I have received bearing on that question, and I have stated my conversation with the admiral.

Appendix to Captain Peirce Crosby's testimony.

A 1.

UNITED STATES SQUADRON ON THE COAST OF BRAZIL,
FLAG-SHIP BROOKLYN, RIO DE JANEIRO,
July 21, 1866.

SIR: Fill up with coal and provisions immediately and hold yourself in readiness for service up the river.

Make inquiries in regard to the facilities for obtaining coal at Rosario and Corrientes, and report to me the result.

Inform me when your vessel is ready for sea.

Respectfully,

S. W. GODON,

Acting Rear-Admiral, Commanding South Atlantic Squadron.

Commander PEIRCE CROSBY,

United States Navy, Commanding United States Steamer Shamokin.

[Received on July 31 and answered August 1. August 16, 1866, reported ready for service.]

A 2.

UNITED STATES STEAMER SHAMOKIN, OFF BUENOS AYRES,
August 1, 1866.

SIR: I have to acknowledge the receipt of your communications of July 20 and 21 and I am making preparations for sea, viz: purchasing coal and provisions.

I understand that there is coal at Corrientes—about 100 tons, which I will have to purchase here from the parties owning it. It is New Castle coal and is held at about \$19 per ton. I do not know yet how long it will be held at my disposal. Should it be in the market when I hear from you, I have to ask for authority for purchasing it before going up the river. Coal is exceedingly scarce here and I have difficulty in getting it. I am now trying to get 150 tons from a vessel in the "outer roads," which belongs to the gas company of this place and is held at about \$24 per ton. I do not know what success I will have, but will write you by the earliest opportunity. This letter I write now as the mail closes at 11 a. m., before I can get a positive answer, which I have been trying to do since I received your communication yesterday.

There is no other coal here, except the above-mentioned.

We have on board about 100 tons.

Very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

S. W. GODON,

Acting Rear-Admiral, Commanding United States Brazil Squadron.

P. S.—I have just seen a party having 100 tons New Castle coal at \$17 per ton, and I have agreed to take it. The coal belonging to the gas company is Cardiff, and I am just informed they will not take less than \$30 per ton, and are very indifferent about selling at that.

I will get 50 tons.

PEIRCE CROSBY,
Commander.

A 2.

UNITED STATES STEAMER SHAMOKIN, OFF BUENOS AYRES,
October 17, 1866.

SIR: I have to acknowledge the receipt of your three communications of October 5, 1866, relating to Mr. Washburn and General Asboth.

In accordance with your instructions I received General Asboth on board this vessel from the steamer Arno, on the 12th instant, and on the following day proceeded with him on board, to this port, in company with the United States steamer Kansas.

I saluted General Asboth upon his coming on board in Montevideo, and upon his debarkation at this port. I will be ready to proceed up the river with Mr. Washburn as soon as he makes application for me to do so. As there was no accommodation in the cabin of this vessel for Mr. Washburn and his family, I have put up two state-rooms for their convenience.

Very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

S. W. GODON,
Acting Rear-Admiral, Commanding United States Brazil Squadron.

A 3.

UNITED STATES STEAMER SHAMOKIN, OFF BUENOS AYRES,
August 16, 1866.

SIR: In accordance with your order July 21, the Shamokin has been filled up with coal and provisions and is now in all respects ready for sea.

The bad weather and difficulty in obtaining coal has prevented me from reporting the vessel ready for service at an earlier date.

Very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

S. W. GODON,
Acting Rear-Admiral, Commanding United States Brazil Squadron.

A 5.

UNITED STATES STEAMER SHAMOKIN, OFF BUENOS AYRES,
August 24, 1866.

SIR: I have written by previous mails, which I fear have been delayed, stating that the Shamokin is ready for service up the river; also that coal can be obtained at Rosario. The United States minister to Paraguay is at this place, expecting to go up the river in this vessel. We have no news of importance from up the river, but there is a rumor that a decisive battle is about to be fought.

The Brazilian transport, San Francisco, was consumed by fire in the outer roads on the 20th instant.

Very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

S. W. GODON,
Acting Rear-Admiral, Commanding United States Brazil Squadron.

A 6.

[Letter August 11, refers to engineer department, deserters, &c.; but not to Paraguay affairs.

Letter August 16, reporting Shamokin ready for service up river.

Letter August 24, reporting Shamokin ready for service, and United States minister to Paraguay at Buenos Ayres; expects to go up in Shamokin.]

SOUTH ATLANTIC SQUADRON, FLAG-SHIP BROOKLYN,
Rio de Janeiro, September 15, 1866.

SIR: Your several communications of August 11, 16, and 24, reporting that your vessel is prepared for service up the river, have been received.

Continue to hold yourself in readiness to sail immediately, on the receipt of orders to do so.

Respectfully,

S. W. GODON,

Acting Rear-Admiral, Commanding South Atlantic Squadron.

Commander PEIRCE CROSBY,

United States Navy, Commanding United States Steamer Shamokin.

A 6½.

UNITED STATES FLAG-SHIP WASP, LUJAN RIVER,
December 23, 1866.

CAPTAIN: By direction of the admiral I reinclose a portion of the documents just received from the Shamokin; and he directs me to say that he desires that only matters of pressing importance should be presented for his consideration on Sunday.

Very respectfully,

J. D. MARVIN,

Fleet Lieutenant Commanding.

Commander P. CROSBY,

United States Navy, Commanding Shamokin.

[At the time these documents were returned, the Wasp was in the Lujan river. The following Sunday, Admiral Godon allowed a party to be given on board—a dancing party.]

A 10.

UNITED STATES FLAG-SHIP JUNIATA,
Harbor of Rio de Janeiro, October 5, 1866.

SIR: On application in writing from our minister resident at Paraguay, Mr. Washburn, to whom I have written this day, you will proceed with him and his family, in the Shamokin under your command, to Paraguay, and land him in Asuncion.

You will make the best of your way up the river, and on reaching the blockading squadron, you will inform the commanding officer of your orders to convey our minister to his official post; and will not delay your journey. Permit no passengers, letters, or packages to be sent up in your vessel, except such as belong to the minister. Observe the strictest neutrality between the belligerents. You will under no circumstances give to Lopez, or any Paraguayans, a passage in your vessel on your return. After remaining a reasonable time at Asuncion you will make the best of your way to Buenos Ayres. If Mr. Washburn has gone up the river Corrientes, you will go there and carry out these instructions.

Respectfully,

S. W. GODON,

Rear-Admiral, Commanding South Atlantic Squadron.

Commander PEIRCE CROSBY,

Commanding United States Steamer Shamokin.

Private.]

A 11.

U. S. S. BROOKLYN,

October 8, 1866,

Rio de Janeiro.

MY DEAR CAPT.:

I have sent you an order to take Mr. Washburn and his family up to Asuncion. It will be as well that you should know how matters stand. I had declined to take, or rather have Mr. W. taken to Asuncion some time ago. The Navy Department app'd of my course. Since then the refusal of the allies to give Mr. W. free pass through the military lines has annoyed the gover't at home, and they—that is, the State Depar't—have directed him to write to the Argentine gov't and com'r-in-chief of the allied armies and demand a free pass through the lines; if this was refused *again*, I was to take Mr. Wash'n up in a man-of-war. Presuming Mr. W. has applied, as directed, I have written him to inform him of my order to you and to tell him to apply to you in writing. At all events, it is proper now that Mr. W. should go to his post, and the Secretary of State *desires* it. Mr. W. will, if he pleases, show you a copy of my orders from the Secretary of the Navy. I am not *required* to send him up if a *free pass* is given him, and it is known that orders have been sent from here *not* to obstruct his

passage; but I think it is proper he should go in a vessel of war, *any how*, now; a *protest* by the blockade need not be regarded—nothing but absolute force should prevent you; however, if the river is *too low*, then you cannot go up *now*. Go as high as you can and wait till the waters rise. *Rosario* would be a good place to remain at till you can go up. The Wasp does not carry coal enough to go and return. Mr. Washburn must pay his own expenses. I do not feel much confidence in Mr. W.'s judgment as an international lawyer, or as to his views in general. So follow your own common-sense, which will be the safest way, I hope. When you reach Asuncion do all you can to make Mr. W.'s landing of consequence to him, and give him every attention. Get me a *dozen* of those *rings* made in Paraguay, marking *prices* on them—they are for others. Get me some of that Paraguay *cordial* or *caña*. I shall be down at the river about the 1st or 15 of next month. You can get *wood* to burn in your furnaces along the river if you have means to cut it. You know that the river gets hot, full of insects, and unhealthy later; so govern yourself accordingly.

Yours, very truly,

S. W. GODON.

A 13

UNITED STATES STEAMER SHAMOKIN,
Harbor of Montevideo, October 12, 1866.

SIR: I have received from Rear-Admiral S. W. Godon, commanding South Atlantic squadron, the following instructions:

"On application in writing from Mr. Washburn, our minister resident at Paraguay, to whom I have written this day, you will proceed with him and his family in the Shamokin under your command, and land him in Asuncion."

General Asboth is now on board the Shamokin, and I will leave here to-morrow for Buenos Ayres, taking him with me, and will be ready to carry out my instructions regarding yourself.

It is now blowing a gale, and prevents my leaving until I can communicate with the shore and get off the pilot.

I have a communication for you from the admiral inclosed to me, which I consider best to deliver in person as it might not otherwise reach you.

Very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

Hon. CHARLES H. WASHBURN,
United States Minister Resident at Paraguay, Buenos Ayres.

A 14.

BUENOS AYRES, *October 16, 1866.*

SIR: Will you be kind enough to give myself and family a passage in the vessel under your command to Asuncion, and oblige,

Your obedient servant,

CHARLES A. WASHBURN,
United States Minister to Paraguay.

Commander PEIRCE CROSBY,
Commanding United States Steamer Shamokin.

A 15.

UNITED STATES STEAMER SHAMOKIN,
Corrientes, November 2, 1866.

SIR: I arrived at this place with the United States steamer Shamokin at 9.30 a. m. to-day, my run so far having been without accident; and will leave this port this afternoon, and proceed up the river.

Very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

Rear-Admiral S. W. GODON,
Commanding United States Brazil Squadron.

A 16.

UNITED STATES STEAMER SHAMOKIN,
River Paraguay, November 3, 1866.

SIR: I arrived and anchored at the mouth of this river last night at dark, and shortly after was boarded by an officer from the Brazilian blockading vessel at the mouth of the Paraguay river, offering the usual civilities and informing me that the blockade commenced here, and that no instructions had been received regarding the passage of this vessel up the river; whereupon I told him that I would go up on the following day; and as he offered his services to carry a dispatch from myself to Admiral Tamandaré, (of which I inclose a copy, marked No. 1,) I embraced the opportunity and sent it immediately, with one of my officers, (Acting Ensign Pendleton,) together with a verbal message to the admiral that I would pay my respects to him as I passed up in the morning.

At 3.30 this a. m., Acting Ensign Pendleton returned, in company with the commanding officer of the Brazilian blockading vessel, and I was informed by them that the admiral had not received any instructions whatever regarding the passage of this vessel up the river; also, that the admiral would come down and call on me at 10 a. m. to-day. At 7 a. m. I dispatched Mr. Pendleton with a letter to General Mitre from the Argentine government, regarding the passage of this vessel up the river, which letter was sent up by Mr. Washburn. At 10 a. m. Admiral Tamandaré called on board, and gave me a letter in answer to my communication in which I had informed him that I was going to Asuncion. The admiral proposed to send Mr. Washburn up by another conveyance. I replied to this proposition (as will be seen in inclosure marked No. 2) by stating that my orders were imperative; whereupon Admiral Tamandaré made his protest, a copy of which I inclose, marked No. 4, also a copy of his first communication, marked No. 3, both of which are in the Portuguese language. After this form had been gone through with, the admiral very kindly offered to send a letter through the lines from Mr. Washburn to General Lopez, announcing his arrival here, and asking for a pilot to conduct this vessel up after passing the Brazilian squadron, in order to avoid torpedoes. I expect to obtain a pilot on Monday, (5th instant,) and will at once proceed on my journey.

I sent Acting Ensign Pendleton as bearer of dispatches from Mr. Washburn to General Lopez regarding our safe passage up the river after getting within the Paraguayan territory, and gave him verbal orders to say to General Lopez that it was my desire to pass up to Asuncion, or to land Mr. Washburn within the lines if possible. As Admiral Tamandaré had received no instructions whatever from his government to allow this vessel to pass up the river, he was placed in a very embarrassing position on my arrival. As my orders were positive, and there was no alternative but to decide the matter at once, either by consenting to our passage under protest or resorting to force, the admiral agreed to our passage under protest. Admiral Tamandaré has been exceedingly courteous in offering every assistance in procuring pilots to go through the obstructions, sending his own pilot to conduct me through his lines.

Very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

Rear-Admiral S. W. GODON,
Commanding United States Brazil Squadron.

A 17.

UNITED STATES STEAMER SHAMOKIN,
Parana River, November 9, 1866.

SIR: Acting Ensign Pendleton returned to this vessel at 11 a. m., on the 5th instant, in company with a Brazilian pilot whom Admiral Tamandaré sent to conduct the Shamokin past his fleet. At 1.20 p. m. I got under way and proceeded up the river. After passing the blockading fleet the Brazilian pilot left us, and, in his stead, I received a Paraguayan pilot on board, who conducted the vessel to Curupaiti, about a mile and a half in advance of the Brazilian picket vessel, which was as far as the obstructions in the river would allow this vessel to proceed. The pilot would not attempt to conduct her through the obstructions, saying the danger was too great on account of torpedoes.

At 4.30 p. m. I came to anchor off Curupaiti, and saluted the Paraguayan flag, which salute was returned by the fort. I then disembarked Mr. Washburn and his family, together with their effects, and upon his leaving the vessel, saluted him with 15 guns.

Before passing through the Brazilian lines, Admiral Tamandaré informed me by a verbal message through one of his officers, that he would suspend hostilities for four or five hours, during our passage.

I fully expected to be able to go above the Paraguayan fortifications, but the Paraguayan officers and pilots said it was impossible for this vessel to pass through the obstructions which are situated immediately below the fort, telling me there were torpedoes only a few feet above where the vessel was then lying. I therefore had to land Mr. Washburn below the Paraguayan fort.

The Shamokin laid in a direct line between the Brazilian fleet and Curupaiti, and it was impossible for her to remain in the position she then occupied without embarrassing the movements of the Brazilian fleet. Under the circumstances I could not wait for such communications as Mr. Washburn wished to send by this vessel, and, at his earnest request, I dispatched Acting Ensign Pendleton to accompany him to his destination, that he might return with such dispatches as Mr. Washburn might wish to send. At 1 p. m. I got under way, and proceeded to my anchorage at Tres Bocas, below the blockading fleet.

On the 6th instant I sent a letter to Admiral Tamandaré, informing him that I had sent an officer with Mr. Washburn to bring back his dispatches, of which letter the inclosed, marked No. 6, is a copy.

On the 7th instant Mr. Pendleton returned with dispatches from Mr. Washburn, and was brought down to this vessel by a Brazilian gunboat.

Admiral Tamandaré sent me a verbal message through an aide-de-camp that he had not had time to answer my letter of the 6th instant concerning the return of Mr. Pendleton, but that he would protest against his return through the lines, and would send me his protest at Buenos Ayres.

On the morning of the 8th instant I left Tres Bocas for Buenos Ayres.

Inclosed (No. 7) I send a copy of Mr. Pendleton's report to me concerning his transit through the Brazilian lines, and his interview with General Lopez; also a copy (No. 8) of his report concerning his passage to Humaita with Mr. Washburn.

Very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

Rear-Admiral S. W. GODON,
Commanding United States Brazil Squadron.

A 18.

UNITED STATES STEAMER SHAMOKIN,
Tres Bocas, November 5, 1866.

SIR: In compliance with your orders of the evening of the 3d instant, "to proceed to the camp of his excellency Francisco S. Lopez, president and commander-in-chief of the republic of Paraguay, and from him ascertain whether there are obstructions in the river Paraguay which will prevent the United States steamer Shamokin passing to Asuncion, and if so, to learn how far the steamer could come within his lines with safety; and also to make an arrangement for a pilot to come on board after the Shamokin had passed the Brazilian blockading squadron," I have the honor to make the following report:

At 5.10, on the morning of the 4th instant, I left this ship, having in my possession an unsealed communication addressed to his excellency Francisco S. Lopez, president and commander-in-chief of the republic of Paraguay. I went on board the Brazilian gunboat Ivaity, and was soon under way for the flag-ship of Vice-Admiral Tamandaré, commanding the Brazilian naval forces on the Paraguay river, reaching there about 11.30 a. m., and from the admiral receiving another letter addressed to his excellency Francisco S. Lopez, &c.

The preliminaries of a flag of truce having been arranged, I started about 1 p. m. under an escort of cavalry, bearing the American and Brazilian flags, with a flag of truce, to cross the lines; we were met by an escort from the Paraguayan forces at Curupaiti, who conducted me to the headquarters of General José Dias, where I remained until my presence was made known to his excellency President Lopez, who desired a personal interview with me.

About 5 p. m. I reached his headquarters, delivering my communications, and in answer to your inquiries as to the Shamokin being able to pass to Asuncion from above the Brazilian squadron, he informed me that it was impossible for the ship to do so. And although he regretted very much that we could not reach the capital, the obstructions were such they could not be temporarily removed, and it would be very dangerous to pass above Curupaiti, and that he would provide a pilot to take us as soon as we passed the Brazilian fleet.

He informed me that he wished to return a letter to Hon. Charles A. Washburn, informing him of the matter. On the following morning about 7.30 I received two sealed letters from President Lopez, (through one of his staff,) one addressed to Vice-Admiral Tamandaré, the other to Hon. Charles A. Washburn.

I immediately started to return, doing so by the same medium through which I went, reaching my ship at 12 m., bearing the dispatch to the Hon. Mr. Washburn, and delivering the one addressed to Vice-Admiral Tamandaré in person, at the headquarters of General Porto Alegre, as I returned.

Very respectfully, your obedient servant,

R. C. J. PENDLETON,
Acting Ensign United States Navy.

To Commander PEIRCE CROSBY, U. S. N.,
Commanding United States Steamer Shamokin.

[This is the same officer that the Brazilians made such a long protest about my leaving him with Mr. Washburn to bring back dispatches.]

A 19.

UNITED STATES STEAMER SHAMOKIN,
Parana River, November 8, 1866.

SIR: In obedience to your orders of the 5th instant, "to accompany Hon. Charles A. Washburn, minister resident to the republic of Paraguay, within the lines of the Paraguayan army, and return with such communications as he may desire to send by me," I have the honor to make the following report:

On the evening of the 5th instant I left this ship, then lying under the fortifications of Curupaiti, on the Paraguay river. Upon reaching the shore I learned that Mr. Washburn had started for Humaita, and I immediately followed, reaching there about 8.30 p. m. The next morning a steamer was placed at Mr. Washburn's disposal, and preparations made to leave that evening for Asuncion.

At 9 p. m. Mr. Washburn gave me a package addressed to General Asboth, United States minister to Buenos Ayres. I returned to Curupaiti the same night, in order to cross the lines early the next morning, but was detained from doing so by an engagement having taken place between the two armies on the extreme right. After the firing had ceased, General Dias, of the Paraguay army, sent me under flag of truce to the Brazilian lines, where I was received by the picket guard, and by them detained until my presence was reported to General Porto Alegre, who returned word that I would not be allowed to pass. In this peculiar situation I asked permission to communicate with you, which was very cheerfully granted. The note being intercepted by Vice-Admiral Tamandaré, he at once had an interview with General Porto Alegre, and dispatched an officer to inform me I could pass, but only under protest, as there had been no understanding that any one but Mr. Washburn, his wife, and one servant, were to leave the Shamokin. Admiral Tamandaré kindly sent me on one of his small steamers to return to my ship, which I did about 5 p. m. on the 7th instant, bringing with me the correspondence of Mr. Washburn.

Very respectfully, your obedient servant,

R. C. J. PENDLETON,
Acting Ensign United States Navy.

To Commander PEIRCE CROSBY, U. S. N.,
Commanding United States Steamer Shamokin.

[NOTE.—Mr. Pendleton is the same officer who was bearer of dispatches from the Shamokin to President Lopez, with the consent of the commander-in-chief of the allied forces, and there was no sensible or reasonable objection to his remaining with Mr. Washburn to bring his dispatches, notwithstanding the protest of Admiral Tamandaré.—P. C.]

A 20.

[On the 5th November landed Mr. Washburn at Curupaiti

On the 8th November left the Tres Bocas.

About the 11th November arrived at Rosario, where I received this communication.]

SOUTH ATLANTIC SQUADRON, FLAG-SHIP BROOKLYN,
Rio de Janeiro, October 21, 1866.

SIR: In my instruction to you to proceed to Asuncion, on application in writing from Mr. Washburn, I did not allude to any difficulties you might meet with for want of water, nor from torpedoes, or other obstructions in the river, placed by Paraguayans.

You will not proceed at all, until you know the water is high enough to allow you to go up without inconvenience.

I torpedoes or other difficulties offer, you will then land the minister at Curupaiti

by boats, or at some convenient landing within the Paraguayan lines, to which the allies will have no objections, or you may be obliged to avail yourself of the means which will be placed at your disposal to pass the minister through the allied lines to those of General Lopez.

Respectfully,

S. W. GODON,
Rear-Admiral, Commanding South Atlantic Squadron.

Commander PEIRCE CROSBY, U. S. N.,
Commanding United States Steamer Shamokin.

A 23.

UNITED STATES STEAMER SHAMOKIN,
Lujan River, December 26, 1866.

SIR: In answer to your communication of the 24th instant, requiring me to explain why I gave a copy of any of your orders to me, to Mr. Washburn, United States minister to Paraguay, I have to say that I wrote to Mr. Washburn, informing him of my orders to take him to Asuncion, upon his application to me in writing; and in doing this I quoted the words of the portion of your order which referred to his making an application in writing, in order that there would be no misunderstanding about it; that is, in the form required of him—a written application.

Very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

Rear-Admiral S. W. GODON,
Commanding United States South Atlantic Squadron.

A 23½.

UNITED STATES STEAMER SHAMOKIN,
Tres Bocas, November 2, 1866.

SIR: In obedience to my instructions, I have the honor to inform you that I have the Hon. C. A. Washburn, United States minister to Paraguay, and family, on board of this vessel, with orders from Rear-Admiral S. W. Godon, commanding United States South Atlantic Squadron, to proceed with him without delay to Asuncion.

I am, very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander United States Navy.

His Excellency Vice-Admiral VISCOUNT DE TAMANDARÉ,
Commanding Allied Squadron.

A 24.

UNITED STATES STEAMER SHAMOKIN,
Tres Bocas, November 3, 1866.

SIR: I have the honor to acknowledge the receipt of your communication of the 3d instant, in reference to the passage of the Hon. C. A. Washburn, United States minister to Paraguay.

In reply I have to state, that my instructions from my commander-in-chief are imperative, and it is necessary that I should proceed on my journey without delay, and which I will do unless prevented by absolute force.

I have the honor to be your obedient servant,

PEIRCE CROSBY,
Commander United States Navy.

Viscount de TAMANDARÉ,
Vice-Admiral, Commander-in-Chief of the Brazil Squadron, Paraguay.

A 26.

UNITED STATES STEAMER SHAMOKIN,
Tres Bocas, November 3, 1866.

SIR: At the request of the Hon. Charles A. Washburn, United States minister to Paraguay, I ordered one of my officers, Acting Ensign Pendleton, to accompany him to

his destination in Paraguay that he might bring back such dispatches as the Hon. Mr. Washburn may wish to send; and I have to request that you will allow my officer to pass through your lines on his return, which I expect will be on Tuesday.

Allow me, sir, to return my thanks for the great courtesy you have shown me in this very delicate mission.

I am, sir, very respectfully, your obedient servant,

PEIRCE CROSBY,
Commander.

Viscount de TAMANDARÉ,
Vice-Admiral, Commander-in-chief of the Brazil Squadron, Paraguay.

A 28.

[Translation of A 27.]

COMMANDER-IN-CHIEF OF THE NAVAL FORCES OF BRAZIL

IN THE RIVER LA PLATA,

On board Steamer Apa in front of Curuzú, November 7, 1866.

SIR: With great surprise I have read the note which you sent me yesterday, communicating to me that, at the request of Mr. Washburn, United States minister for Paraguay, you had ordered one of your officers, the Acting Ensign Mr. Pendleton, to accompany him for the purpose of returning with dispatches which the said Mr. Washburn should like to forward, asking me to allow this officer to pass through our lines.

When I permitted that the steamer of your command might pass the line of blockade and the forces in operation that I maintain in this river to communicate with territory of Paraguay, I had in view, only, to give credit to the testimony of Rear-Admiral Godon, and of Generals Webb and Asboth, United States ministers in Brazil and in the Argentine Republic, and to honor the character of these gentlemen, who, in dispatches written to Mr. Washburn, assured for certain that the imperial government, with consent of the Argentine, had sent orders permitting that this gentleman and his family might proceed to his destination in a man-of-war of his nation.

You are aware, on account of having been present at the conference which I had with Mr. Washburn on board of the ship under your command, that in the absence of orders direct from my government to permit his passage, I procured to conciliate the departure of Mr. Washburn for his destination, with our rights of belligerent, pointing out to him a manner of effecting, without violation of the blockade, his transport for Paraguay through the lines of the allied armies, or otherwise, in one of the steamers of this squadron, which would convey him to the advanced posts of Curupaiti, in order to transship himself to a Paraguayan steamer, in which he could continue to Asuncion, preceding to this an agreement with the Marshal President of Paraguay; and you are aware, likewise, that only to the irresolution of Mr. Washburn in not acceding to these my propositions, and to the steadiness in availing himself of the permission granted by the Brazilian government, I had to yield, to give the most complete credit to the testimony of the delegates of the United States government.

It was likewise with the same object in view that I procured to facilitate and accelerate his voyage by all measures, even pointing out to Mr. Washburn the idea that he should ask for a pilot from Marshal Lopez, in order to take the Shamokin from my vanguard upwards through the secret obstacles with which the Paraguayans have pretended to obstruct the river; I offering and lending, on that occasion, a pilot that should take her from the mouth of this river up to the palisade of Curupaiti.

With this my proceedings I believe to have demonstrated how much the imperial government is careful in demanding from their agents that they shall maintain the most exact and obliging relations with the agents of the friendly nations. And if I did protest, in the name of my government, against the going up of the Shamokin, disregarding the friendly means that I proposed, it was foreseeing the consequences of this act.

In these consequences, notwithstanding, I could not foresee that an officer of the Shamokin (should or) might remain in Paraguayan territory without right for so doing, nor permission equal to the one granted to Mr. Washburn and his family, the which constitutes an offense to the right which my nation and their allies have of impeding the passage of any neutral agent to the enemy's territory, and anew (*de novo*) it compels me to protest against those who ordered that act, as I protest solemnly; and in this manner I reply to your above-mentioned note.

But as Mr. Pendleton presented himself at the advanced posts of the army of Viscount de Porto Alegre without the customary formalities in similar cases, and the Paraguayans that accompanied him went back to their camp without delay, and that worthy officer found himself in the impossibility of going backwards without risk, as the Paraguayans might fire on him as they did to the parley (parlamentarian) when the same

Mr. Pendleton and my secretary and aid-de-camp, first Lieutenant Arthur Silveira da Motta, were going, Viscount de Porto Allegre and I determine to consent to the passage of the said officer, allowing ourselves (*reservandonos*) the right of protesting against his stay, though of short duration, in the territory of Paraguay.

I am, with much consideration, your attentive admirer and servant,

VISCONDE DE TAMANDARÉ.

Mr. PEIRCE CROSBY,

Commander of the United States Steamer Shamokin.

Testimony of Robert C. Kirk.

WASHINGTON, D. C., April 12, 1869.

ROBERT C. KIRK sworn and examined.

By the CHAIRMAN:

Question. State your residence, and the office held by you at the time of Mr. Washburn's visit to Paraguay.—Answer. I reside in the State of Ohio. I was at the time referred to, minister resident to the Argentine Republic.

Q. Have you read the petition of Masterman and Bliss, which is now the subject of investigation?—A. I have not.

Q. Are you acquainted with the facts connected with this matter?—A. I am acquainted with some of the facts in connection with Admiral Godon sending Mr. Washburn to Paraguay.

Q. Please state to the committee what you know in regard to that matter.—A. Mr. Washburn arrived in the city of Buenos Ayres in the winter of 1865. I think Admiral Godon arrived there in January, 1866. When Mr. Washburn arrived there he told me he had met Admiral Godon at Rio Janeiro, and that the admiral had promised to send him to Paraguay, but when the admiral arrived at the city of Buenos Ayres he refused to send him to Paraguay. The admiral gave several reasons in my presence for refusal to send him. One of the particular reasons he urged was that he had no authority from the department, and that it was necessary for him to use economy in burning coal. He also said that he did not think the interests of the government required that he should send Mr. Washburn to Paraguay. Mr. Washburn repeatedly in my presence urged the admiral to send him to Paraguay. I also said that I thought the admiral should send Mr. Washburn to Paraguay. Mr. Washburn was there a long time urging the admiral to send a vessel to take him to Paraguay, but he refused to do so. I thought the action of Admiral Godon while he was there tended to lessen the influence of ministers abroad. I know that his action lessened my influence there, and I am satisfied it lessened Mr. Washburn's influence. When Admiral Godon first arrived there I formed a favorable impression of him. I liked him very much, but his subsequent acts caused me to change my impression of him, being satisfied that his course was such as to lessen our influence there. I know that before he came there my influence was good, and that I had effected a great deal with the Argentine Republic in favor of the United States. When I left Buenos Ayres Mr. Washburn had not yet reached Paraguay. I believe he was sent there afterwards.

By Mr. ORTH:

Q. When was this?—A. This was, I think, in the early part of 1866. I never expected to give any evidence in the case, and consequently cannot speak with entire accuracy as to dates.

By the CHAIRMAN:

Q. Did the refusal of Admiral Godon to forward Mr. Washburn to his post imply on his part any other right to judge than that which pertained to him as an officer of the navy?—He claimed that he was to judge of his own acts; that he was under no obligation whatever to ministers. He told Mr. Washburn that he was under no obligation to him, and he told me that he was under no obligation to me as a minister, whatever. When I left him he was about to embark on a visit to General Urquiza. I told him that I thought he ought not to visit General Urquiza; that the relations existing between the United States and the Argentine government being friendly, I thought such a visit would be interpreted by that government as unfriendly in its nature, and I thought he ought not to make the visit. He still insisted, however, that he would go to make the visit. Thinking the matter was of some importance, I sent him a friendly note, addressed to him as "Dear admiral," giving my reasons for the opinion I had expressed more at length. When he received that note I learned from friends of mine who were present that he spoke very unkindly of me for sending it. He started on the trip, went as far as Concepcion, and then concluded that he would not visit General Urquiza, and

as I learned, my letter had the effect of causing him to reconsider his determination to do so. When he came back to Buenos Ayres he visited the legation, and asked me why I had written that note to him. I told him that the letter gave its own explanation; that its object was simply to express my opinion that he ought not to visit General Urquiza. He expressed, seemingly with some feeling, the opinion that he was under no obligations to me. I told him I was quite aware that I had no right to control his movements, but that I thought when a minister had resided for several years in a place, that an admiral coming to that place could properly consult the minister in regard to any such movement; that the minister would be more likely to know the condition of affairs and to judge of the effects of a particular line of policy than a man who had just come to the country. That passed off, and I heard no more of it, and had no other disagreement with the admiral that I know of.

Q. Do you mean to say that the reasons given by the admiral were that he was under no obligation to aid the diplomatic agents of the government—that he was only bound to do what suited himself as a naval officer?—A. That is as I understood it. Unless his opinion coincided with the opinion of the minister he was not bound to be governed thereby.

By Mr. ORTH:

Q. Do you mean that he was not, upon questions of political and diplomatic affairs?—A. I should judge so upon all affairs. He told me I had no claim to have any influence upon his action whatever. I thought it was his duty to listen to suggestions made by me in regard to political questions. The Argentine Republic was engaged in a war with Paraguay. I was occupying a neutral position. My government had the good will of the Argentine government, and I thought it important that he should not do anything to disturb those friendly relations.

By the CHAIRMAN:

Q. Did he express any dissent from Mr. Washburn's movements in regard to international affairs?—A. He said this—that he was under no control whatever from Mr. Washburn or from myself; that he was subject to the control of the Secretary of the Navy; that he was responsible to the Secretary of the Navy, and to nobody else. I suppose that was true, and I did not claim to have any control over his actions.

Q. What was the deportment of Mr. Washburn towards Admiral Godon?—A. It was of the kindest character. I was strongly impressed with the fact that he conducted himself under the circumstances in a very gentlemanly and dignified manner.

Q. No dissatisfaction was expressed at any time in that regard?—A. No; not at any time while I was there.

Q. Have you formed any opinion as to the propriety of Admiral Godon's going up to visit General Urquiza?—A. I have; and I have just stated that it was the letter I addressed to him which caused him not to make that visit.

Q. What was the basis of the opinion expressed by you against the propriety of that visit?—A. My opinion was that it would create trouble between the Argentine government and the government of the United States. Urquiza was regarded at that time as hostile to the Argentine government, and I thought a visit to him by the admiral of the United States navy would be construed as an unfriendly act to the Argentine government; that it would cause them to look upon us as sympathizing with Paraguay and against that government.

Q. What was the admiral's reason for paying this visit against your remonstrance?—A. Simply that he thought Urquiza an important man there, and that he ought to pay him a visit.

Q. What position did Urquiza hold at that time?—A. None whatever. He was a private citizen—the ex-president of the republic; a very wealthy and powerful man.

Q. You say you expressed these opinions to him?—A. I did, in the letter I wrote to him; and I also sent a copy of that letter to the department.

Q. Have you stated all the circumstances connected with this remonstrance?—A. Yes, as nearly as I can recollect.

Q. Did Mr. Washburn ever in your presence urge the admiral to send him to Paraguay?—A. Repeatedly. The admiral gave as a reason for not sending him, that he could not burn coal; and afterwards, when an American citizen, Mr. Samuel P. Hale, asked him if he would send Mr. Washburn to Paraguay if American citizens there would furnish the coal, the admiral said that he did not wish to send a vessel, because the men would suffer from the climate.

By Mr. ORTH:

Q. Was that the fact?—A. I do not know. I know several of the men connected with the fleet wanted to go up—were anxious to go.

Q. Was it the unhealthy season of the year?—A. No, it was in winter season. I know that Captain Walker and Captain Wells were both anxious to go up.

Q. What was the general line of conduct of Admiral Godon in regard to ministers representing the United States?—A. It was just as I have stated. He said he was

under no control or obligation whatever to the ministers; that his obligations were simply to the Secretary of the Navy.

Q. What was his conduct and bearing towards these ministers?—A. It was always gentlemanly to me. I supposed that he would listen to any advice or suggestions that I gave him; but unless they corresponded with his own views he would not be governed by them.

By the CHAIRMAN:

Q. When he said he was not under the control of the diplomatic representatives of the government, did you understand that anybody had assumed to control his movements or give him orders?—A. No; it was a voluntary remark of his. I know that it was entirely voluntary on his part when he said that to me in consequence of a friendly letter I had written to him, suggesting reasons why he should not visit Urquiza. I thought it was proper, and my duty as a representative of the government, to give him the information which I did in my letter.

Q. Did you understand him to consider himself in anywise bound to respect the opinions of the United States ministers in regard to the foreign countries to which they were accredited?—A. I do not know that I could answer that question positively. I felt this, that he was always controlled by his own opinions. I think Admiral Godon would consult a minister, but at the same time, if the opinion expressed by the minister did not coincide with his own he would not be governed by it. He claimed to be under the control of nobody except the Secretary of the Navy.

By Mr. ORTH:

Q. Did you understand that the main reason why he declined to send a vessel to take Mr. Washburn to Paraguay was that he had not coal or fuel?—A. That was the first reason he gave.

Q. Was this offer on the part of American citizens to furnish fuel brought to his attention?—A. It was. I told him about it myself. He said he could not go; and he repeatedly refused positively to send Mr. Washburn to Paraguay. As I stated, he subsequently gave the excuse that it would endanger the health of his men. This was after the offer on the part of Mr. Hale to furnish coal.

Q. At which of your interviews with him did he say Mr. Washburn ought not to go there, for political reasons?—A. He frequently said this. He said that he would not take Mr. Washburn; that he saw no reason why Mr. Washburn should be there; that there was no interest suffering because he was not there. That was one of the positions he took. Mr. Washburn told me one day that he was going to vindicate himself, and that the admiral would have to take the consequences. He asked me to state this to the admiral, which I did.

Q. What was his reply?—A. I do not recollect perfectly what he did reply. The substance of it was that he felt perfectly independent.

Q. Did Mr. Washburn request to be taken upon a vessel of the navy—upon a gunboat?—A. Yes, sir.

Q. The admiral declined that?—A. Yes, sir; repeatedly.

Q. What length of time would it have taken a vessel to have made the trip?—A. It takes about six or eight days to go up, and probably a less time to return.

Q. Do you think a vessel could have taken him there and returned within twelve days?—A. Yes; unless it was detained.

Q. In your opinion, would a trip of twelve days for that purpose endanger the health of the men going there?—A. I should say it was no excuse at all.

By the CHAIRMAN:

Q. Did you regard it as necessary, from the condition of public affairs, that Mr. Washburn should go to his post?—A. I hardly know how to express myself in answer to that question except by saying, that Mr. Washburn was minister of the United States accredited to Paraguay, and that it was his duty to go there. If he had gone by any other conveyance than an American man-of-war it would have given him much less power and much less influence than to have been conveyed in one of the naval vessels.

Q. In consequence of this delay how long was Mr. Washburn detained from proceeding on his mission?—A. I do not know. I arrived there in December, 1865, and left in July, 1866. When I left he had not gone. He made the effort once to get to Paraguay in a private vessel.

Q. During all the time he was there did Admiral Godon have command of the squadron?—A. Yes. And there were a number of vessels of the navy lying there.

Q. You say the admiral did not feel bound to receive the opinions of ministers, or to act on them, unless they accorded with his own ideas of duty as an officer of the navy?—A. He repeatedly asserted that he was under no obligation whatever to them; that he was responsible alone to the Secretary of the Navy. I recollect saying to him once, that I had heard that opinion expressed several times, and that I did not care who he was under obligation to.

Q. What other means was there for Mr. Washburn to get to his post?—A. He could

have gone to Corrientes, 16 or 20 miles below the southern border of Paraguay. He could not have gone directly to Paraguay in any other way. The Brazilian authorities claimed the right to prevent any person from going above Corrientes.

Q. The result of the admiral's refusal was, that Mr. Washburn continued to be detained away from his post?—A. Yes; I have no doubt at all that when he first came there, Mr. Washburn could have been landed at Asuncion without any difficulty.

By Mr. ORTH:

Q. And his presence there would have been productive of a good effect?—A. It might I do not know as to that.

Q. You remarked, did you not, that the refusal of Admiral Godon lessened the influence of Mr. Washburn?—A. It did in the city of Buenos Ayres, or lowered the character of all the representatives of our government. I made the application generally to all of us. It looked as if (and, in fact, he remarked) that we were merely the representatives of political friends.

Q. Did Admiral Godon make that statement?—A. He did: that these ministers were the mere representatives of political friends. As I have said, I did not undertake to exercise any control over him, but I thought under the circumstances existing there, it was reasonable to suppose that he would consult the ministers there in regard to political affairs. My relations with Admiral Godon personally were of the most friendly character nearly all of the time I was there.

By Mr. WASHBURN:

Q. State what was the general feeling of Americans there in the river in regard to the conduct of Admiral Godon?—A. The great mass of Americans there felt that the admiral ought to take Mr. Washburn to Paraguay.

By the CHAIRMAN:

Q. Did you hear the expressed opinions upon that subject?—A. I heard a number of them express themselves in that way.

By Mr. WASHBURN:

Q. Was not that feeling almost unanimous among them?—A. I could not say that. I have forgotten it if I heard any other opinion expressed. The fact of the statement of Mr. Hale, that they would furnish coal for the purpose of taking him up, showed their feeling in that regard.

By the CHAIRMAN:

Q. State whether you heard any American citizen speak in justification of the course of the admiral in this regard.—A. I do not recollect that I did. I may state that when Admiral Godon first arrived there I formed a very favorable impression of him, and I never had any personal disagreement with him unless it was in regard to his proposed visit to General Urquiza; and, as I have stated, he started upon that visit but did not complete it.

By Mr. WASHBURN:

Q. Did he burn coal on that occasion?—A. Of course.

By Mr. ORTH:

Q. What was the occasion of that visit?—A. Nothing more than personal courtesy.

Q. What time did it require?—A. I think he was gone four or five weeks; I am not certain.

Q. Did his fleet go with him?—A. No; only the gunboat Wasp.

Additional statement of Charles A. Washburn.

WASHINGTON, D. C., April 13, 1869.

CHARLES A. WASHBURN appeared and made the following additional statement:

I will remark that I left Paraguay on leave of absence to return to the United States on the 16th of January, 1865. I started again in September from New York to go back with my wife, and reached Rio Janeiro, I think, the 27th of September, or at any rate near the 1st of October. I saw Admiral Godon the same day. He was then stationed at Rio. I was on board his flag-ship. I had a great deal of conversation with him at different times in regard to the situation of affairs, and from other sources learned that in all probability I should not be able to get up to Paraguay without the aid of a gunboat, that all communication otherwise had been stopped. Admiral Godon remarked that he had no suitable vessel to send up the river, but that the steamer Wasp was expected very shortly; in the meanwhile he said he was going down to

St. Catharines, which is 400 miles down the coast. Before that I expected if I found any merchant vessels going up that I should go in one of them, although I supposed I should have a gunboat offered me without any special order from the Secretary of the Navy. When I went out in 1861 we had but one gunboat on the station, and it was questionable whether it should leave the mouth of the river at that time; nevertheless, I ascertained when I got to Rio that Commander Macomb was expecting me and was getting ready to convey me up even without any order. At that time I took the trouble to go to the Secretary of the Navy and request instructions for a gunboat to be sent up. But this time, knowing we had a squadron at that station doing nothing, and supposing the commander of the squadron would desire to facilitate my purpose, I did not think it at all necessary to get a letter from the Secretary of the Navy. If I found it necessary in order to reach my post I supposed I had but to call for a gunboat and it would be furnished me. The admiral, as I stated, went to St. Catharines, 400 miles down the coast, as I understood, though I cannot say he told me, for the sake of exercising his men in target firing. I remained at Rio waiting for the Wasp to come in order to ascertain about what time she might be expected at the mouth of the river, and when I could calculate upon being able to leave and go up to Paraguay. I waited there accordingly until the admiral had gone down to St. Catharines and returned. In the mean time, while he was absent I think, the Wasp arrived, and as he said she must have some improvements or repairs made upon her that would take some time, I took the first steamer after her arrival, according to my recollection, and went down to Buenos Ayres. I took an inferior steamer because I had been delayed there longer than I expected. The admiral told me before I left that he should soon follow, in ten or twelve days at least. I arrived at Buenos Ayres on the 4th of November, and it was about Christmas before I heard of the admiral's arrival at Montevideo. About six weeks after my own arrival I heard that the Wasp had arrived previous to the flag-ship reaching that port, and I wrote a letter addressed to the admiral, which I sent to Commander Kirkland and requested him to deliver it to the admiral as soon as he arrived. That letter is published in the diplomatic correspondence of 1866, under date of December 14, 1865.

By Mr. ORTH:

Q. Is that an official letter?—A. I do not know whether it is official or semi-official. It begins, "My Dear Sir:" and is addressed to Admiral S. W. Godon, United States steam frigate *Susquehanna*, and was signed by myself, "Charles A. Washburn," as I sign all my letters official or otherwise.

Q. Was the letter marked *private*?—A. Not at all. The letter referred to in Captain Crosby's testimony yesterday was marked *private*, and was still designated as semi-official by Admiral Godon. This was not marked *private*. I wrote to the admiral two or three letters while at Montevideo, which are not published in the correspondence. The letter to which I have referred is as follows:

"BUENOS AYRES, December 14, 1865.

"MY DEAR SIR: You see by the date of this that I have only got thus far on my way to Paraguay. I reached here on the 4th of November, and have been patiently waiting here ever since for some conveyance to take me to my post of service. But, as I anticipated while at Rio, all communication between this place and Paraguay has been suspended, and only the war vessels of neutral nations have ventured to pass the lines of the belligerents. A French and an Italian gunboat had been sent up from here a short time before my arrival, neither of which has yet returned to this port. The English gunboat *Spider* left at a later date, and is supposed to be lying at Corrientes, the Brazilian admiral objecting to her going above the 'Tres Bocas.' The Brazilians assume that they have the right to forbid any man-of-war of a neutral power going up the river, and have declared that it was only under favor that the above-mentioned gunboats have been allowed to pass. But both the French and English ministers have protested against this assumed right of the allies, though the latter have not yielded the point, but on the contrary have requested the different ministers to recall all vessels bearing their respective flags to some point below the Brazilian squadron.

"Under these circumstances, I do not know what objections may be made if an American war vessel were to go up the river. I infer, however, that no real objection would be made. The Brazilian special envoy here, Señor Octaviano, has assured me me repeatedly that he would do everything in his power to facilitate my passage, and has even offered me a steamer to take me all the way to Paraguay. But for reasons you will readily understand, I have declined to accept any such favor. But I think I ought not to delay here any longer than is absolutely necessary, and hope that you may find it convenient to dispatch the Wasp or some other light-draught steamer to take me to my destination. Please inform me with as little delay as possible if you can do so, and how soon. I think matters are coming to a crisis at the seat of war, and I am very anxious to be near the scene of action when the day for negotiation arrives.

"I write this letter to you in anticipation of any notice of your arrival in Montevideo,

but as I received a letter from our friend, Major Ellison, saying that you had left Rio on the 5th instant, I think it possible you will be there by the time this note is. I shall be greatly obliged for early information as to what I may expect, as I can make no calculations or arrangements in regard to my own movements till I know how and when I am to go to Paraguay.

"I have the honor to be, very truly, your obedient servant,

"CHARLES A. WASHBURN.

"Admiral S. W. GODON,

"*United States Steam Frigate Susquehanna.*"

I received no satisfactory answer to that letter, and went down to Montevideo to see the admiral.

Q. Did you get any answer at all?

A. I did.

Q. Why was that not published if it went off with the letter which you have just read?

A. That is explained in my letter to Mr. Seward of August 20, 1866, as follows:

"From the admiral I learn by a letter from Mr. Kirk, written at Rio de Janeiro, on his way home, that after getting his instructions to send a vessel from his squadron to Paraguay if so requested by me, he went northward to Bahia, where it is probable my letter will reach him if he has not gone still further north. Mr. Kirk writes me that the admiral told him if I would send an official note he would send a vessel to take me up the river. From this I infer he will try and justify himself for not having done it before by pretending that I have not duly and officially notified him of my desire for his assistance. I will spike that gun for him here and now by sending you a copy of a letter I addressed to him in December last."

Q. Had you written any other letters between the time of sending the letter to Admiral Godon, which you have read, and your letter to Mr. Seward from which you have just read an extract?

A. There were a good many letters which are not published, and this letter I did not intend for publication. I considered it at the time a private letter. I went to see Admiral Godon twice, but he never made any allusion to the fact that he wanted an official letter from me, although he talked the matter over at great length. He stated one reason and another; one was the expense of coal, another the mosquitoes and hot weather, and this, that, and the other.

I have omitted one thing in regard to my conversation at Rio which I had with the admiral. He told me while I was talking with him about the probability that I could not get up to my post without the aid of a gunboat, that in that case when we got down the river if he found it so he would have to send me up. That remark I stated subsequently in a letter I wrote to Mr. Seward. I was somewhat surprised when I arrived at Montevideo, that he was not disposed to do what he had said he would do in Rio. I wish to state another thing which may not be exactly pertinent and still is of some consequence. On reaching Buenos Ayres I found the Argentine government were not disposed to have me go up to Paraguay, as they alleged, for various reasons. The minister of that government told me he thought it would give some moral support to Lopez; that was the principal objection they had. As I had learned before that some papers had been discovered and taken, with which my name was connected, I spoke to him about it. It was in regard to a matter that had occurred about two years before. President Lopez, soon after his accession to power, had a great deal of talk with me about getting some light-draught steamers made in the United States, which I told him we could make better and cheaper than in any other part of the world. He said he wanted to get some specimens of our arms of all descriptions, muskets, pistols, light artillery, &c., and requested me to send to the United States to some person in whom I had confidence and request that these arms might be purchased and sent out. That was in January, I think, 1863. I sent to a friend of mine in New York, and after some months he got together the arms, amounting in value to not more than \$3,000 or \$4,000. He wanted to ship them, but found an order had been issued by the War Department not to allow any arms to leave the country. He tried very hard to get permission, but he could not do it. He wrote to me that he had applied to Mr. Seward, and that Mr. Seward said as I had not written anything to the government about it the arms would not be permitted to leave the country; but that if I should write to the State Department what they were for, there would be no objection. That letter, for some reason, miscarried, and after a long time, as I was writing continuously asking why the arms were not sent, he inclosed to me a duplicate of that letter. After which, I wrote to Mr. Seward about it and he gave permission; in fact, before Mr. Seward got my letter permission had been granted. The Argentine government found something about it which was among the papers taken from the Paraguayan agent at Buenos Ayres, and which led them to suspect that when I left Paraguay I had some agency, or was purchasing arms for Lopez. As that occurrence gave rise to some talk, I think it proper to mention it now, though the whole matter was satisfactorily explained at the time to the Argentine minister, Mr. Rawson, by Mr. Kirk. I will say also, that when I got

to Buenos Ayres I saw the Brazilian special envoy, Señor Octaviano, and told him I was going to Paraguay, taking it for granted I should go in a United States gunboat. He told me that the year before I had been instrumental in getting away the Brazilian minister from Paraguay, and his whole family; that probably all of them would have been killed by Lopez if it had not been for me. He said he would provide me with a gunboat at any time to take me up to Asuncion. I told him no; that it was not well that I should go in a Brazilian vessel; that I knew the character of Lopez, and that he would suspect at once if I came in a Brazilian vessel that I was acting under Brazilian influence; that the commander of our own squadron would be there shortly, and that I would go in an American gunboat, as I supposed I could. I think this conversation with Octaviano must have taken place in November, 1865.

Q. Did you inform Admiral Godon of that conversation, or give the purport of it as a reason why you wanted to go in an American gunboat?—A. I stated it verbally to him; and I believe I wrote to him on the subject unofficially, as no suggestion was ever made by him in any of the many conversations I had with him, that he wanted anything official from me.

Q. Did he ever base his refusal to furnish a vessel to you upon the ground that you had not made an official request?—A. Never at that time. He stated a great many other reasons, but never that. If I had had the least intimation from him I should have given him an official letter at any moment. Señor Octaviano renewed his offer to send me up in a Brazilian gunboat on several occasions; but I told him I could not accept it. Subsequently, however, finding that Admiral Godon would not send a vessel, I addressed a note to the Brazilian minister, Octaviano, telling him that owing to the circumstances in which I was placed, I had determined to accept his offer; but in the meantime he had seen Admiral Godon, and instead of furnishing me a vessel as he had promised to do, he took no notice of my request. The following is the letter I addressed to him on that occasion:

“BUENOS AYRES, *January 18, 1866.*

“SIR: Your excellency is doubtless fully aware of the events which transpired in Paraguay at the time of the commencement of the war now existing between that country and Brazil, and you are probably equally well aware that at the time of the seizure of the Brazilian steam packet Marquis de Olinda by the Paraguay government, the minister of his Majesty the Emperor of Brazil, the Hon. Cesar Sauvan Vianna de Lima, was left in the country with no means of egress for himself, family, or suite. The ports of Paraguay were closed against the departure of any merchant vessel, and no way was left for Senhor Vianna de Lima to get away except by an overland journey so long and difficult as to be utterly impracticable. Under these circumstances, his Majesty's minister, having already received his passports, so that he could hold no further official communication with the Paraguay government, appealed to me, as the senior member of the diplomatic body at Asuncion, to obtain for him and his party some means of leaving the country, and such as would be consistent with the dignity and comfort of a public minister.

“About this time I received from the Secretary of State for my government leave of absence to visit my own country, to which I was anxious and impatient to return. But I immediately responded to his call, and after a long correspondence, and a good deal of vexatious delay, I got the promise of a steamer to take the minister and suite to Buenos Ayres, but on the condition that he should pledge, as its agent and representative, both to the government of Paraguay and that of the United States, that the steamer should return unharmed without unnecessary detention. This pledge was at once given by the minister, and, on behalf of my government, was accepted by me, and the steamer finally left and arrived safely at Buenos Ayres. Having accepted this assurance of the steamer's safe return, it seemed to necessitate my remaining there in Paraguay till she got back, as my going away might have caused suspicion or distrust; so that what with the time consumed in the correspondence, the getting ready of the steamer, and the time taken for the voyage, I was delayed some six or eight weeks in setting out on my visit to the United States. Hence, I was the same length of time later in my return to the Rio de la Plata than I would have been but for the delay to render this service.

“This last delay has, owing to peculiar circumstances, seriously interfered with my return to my post as minister of the United States in Paraguay. No steamer of any nation has ascended the river to Paraguay since my arrival in Buenos Ayres on the 4th of November last. Since that time I have been waiting here for one of our national gunboats to come to this river, supposing it would take me to my post. But I learn that the admiral of the Brazilian squadron now in the Plate objects to the passage of any person or vessel above the Tres Bocas, and the admiral of the United States squadron thinks with myself that it is particularly desirable to avoid any complications in the present war, and especially with the government of Brazil, which, during our late gigantic civil war, has shown itself our steady, reliable, and earnest friend. Hence, as no vessel of my own nation will go to Paraguay at present, I must avail myself of such means of getting there as may be open to me. It is under these circumstances

that I beg to call the attention of your excellency to the fact that, had I not delayed to assist Senhor Vienna de Lima to leave Paraguay, I should have been back here at least a month and a half earlier than I was, and in ample time to have gone to Paraguay on one of the neutral gunboats that left for that country a few days before my arrival here. Hence it is, that from my waiting to render an important and vital service to the Brazilian minister, I am suffering all this inconvenience and detention. It is true that this result is not immediate, but it is no less direct, and I am persuaded that I have only to call your excellency's attention to the facts of the case to secure such action as will relieve me from my present unpleasant position.

"I avail myself of this occasion to express to your excellency my high regard and distinguished consideration.

"CHARLES A. WASHBURN.

"His Excellency F. OCTAVIANO DE ALMEIDA ROSA,
*"Envoy Extraordinary and Minister Plenipotentiary
 "of his Majesty the Emperor of Brazil, &c."*

I will say that, although I wrote this letter after I found Admiral Godon would not send me to my post, and although, as I have stated, Señor Octaviano had repeatedly offered to furnish me a vessel to take me up, yet he had not the courtesy to answer my letter. I cannot say positively that Admiral Godon had seen Octaviano; he had come to Buenos Ayres, and I did not see him with Minister Octaviano, yet I took it for granted that he had seen him, and I think he told me so. In this letter I did not wish to state to the minister of another government that there was any difference between the admiral of the United States navy and myself. We did agree that I should avoid complications, but I never believed it would involve any complication by sending an American gunboat to take me to my destination, and it never did. This letter was sent home with my letter of June 8, 1866, to Mr. Seward. I did not send a copy of that letter immediately for the reason I got no answer to it, and I apprehended that possibly it might not have been received; but Mr. Kirk wrote me that he learned it had been. I will now read what I wrote to Mr. Seward in regard to it:

"With this I send you a copy of a letter which I addressed to the Brazilian special minister, Señor Octaviano, before I left Buenos Ayres. I should have sent a copy of it soon after it was written; but receiving no reply to it, I concluded that from some error it had not been received. But not caring to make any direct inquiry, and not learning anything of it incidentally, I mentioned the matter to our minister, Mr. Kirk, requesting him to advise me should he learn whether it had ever been received or not. By the last mail, which arrived two days since, Mr. Kirk writes me that Señor Octaviano told Admiral Godon that he received my letter, but did not choose to answer it. As I wrote you when I was in Buenos Ayres, Señor Octaviano offered me, without any solicitation, a man-of-war to take me to Paraguay. This offer was several times repeated, and in the presence of Mr. Kirk I replied that on the arrival of our squadron doubtless one of our gunboats would go up the river, so that it would not be necessary to avail myself of his kind offer. He repeated that if I should want it, a vessel would be at my disposition at any time.

"After the arrival of our admiral, however, and he found that he would not send up an American war steamer, it seems that Señor Octaviano changed his mind, for on my writing him a note intimating that I would accept a passage in a Brazilian vessel, he did not condescend to answer it. Such is the brief history of this matter."

The admiral came to Buenos Ayres after I had been to see him twice in Montevideo to urge upon him the necessity that he should send a gunboat, and I had written to him twice on the subject, one of which letters I have already read to the committee. Finally he came to Buenos Ayres, and then told me positively he would not send me. At Montevideo he would never say yes or no. He said "perhaps" he would, that he would see; if I would wait until the 1st of April very likely he would send a gunboat about that time, and perhaps he would consent to go himself as high as Corrientes. Finding that I could not have a gunboat, I thought, as I had been there two months and a half nearly, waiting for the admiral to fulfill what he had given me to understand he would do, I thought I must make an effort to get to my post. I did not believe I could succeed, but I thought I would make the effort. I therefore left my family in Buenos Ayres and started on a merchant vessel and went to Corrientes. I found that the allied armies were stationed a little out of town, and that the army of President Mitre, who is the commander of the allied forces, was about thirty miles from Corrientes. I am not sure about the exact distance. I went to see President Mitre, and told him I wished to go to Paraguay. He treated me with great courtesy. I stayed over night with him. He said it was a question of policy with his government whether I should go through, and that it was beyond his power to decide, that he must refer it to his allies, but in his opinion I had a perfect right to go through, although he stated to me that Admiral Godon had advised some high authority, I think Admiral Tamandaré, in command of the Brazilian forces, that they had a perfect right to stop me. It was his opinion, however, nevertheless, that I had a perfect right

to go, but he must first confer with his allies. I asked him how long it would take him to get their assent. He said he must write to Buenos Ayres, but he was satisfied there was no difficulty in getting through. I replied that in that case, having been to Corrientes and seen the condition of affairs, I would myself return and bring my family there.

I therefore returned to Buenos Ayres, and as Mr. Kirk was absent, I went directly to the minister of foreign affairs and told him what President Mitre had said. He told me the President had written him to the same purport, and that he was of the same opinion; that he had referred the matter to the allied ministers and they were going to allow me to pass through. He gave me a letter to President Mitre requesting him to furnish all proper facilities for me to get through. With that letter I started back, taking my wife and servant with me. The steamer getting aground I was longer in reaching there than I expected to be, and when I went to President Mitre with that letter from his minister of foreign affairs, asking him to send me through, he would not respect it. He said, however, that he would go and consult with Admiral Tamandaré. He repeated that Admiral Godon had told him they had a right to stop me, but that he would consult Admiral Tamandaré, and Marshal Osorio, and others high in authority, and see if they would sanction it, and would let me know the same night. He went on board the flag-ship to see Admiral Tamandaré, and sent me a note soon after that he would write me at Corrientes. He wrote me at Corrientes afterwards that they did not grant me the permission until he again consulted his government. When I went to see him the second time I went on board an English transport. President Mitre told me that he was unwell himself, and that if I would go and see Admiral Tamandaré on board his flag-ship, he could arrange the matter as well as himself; and he sent his minister of war on the boat with me with this message. I found, however, that Admiral Tamandaré had conversed with Admiral Godon, as I have stated, who, as he said, told him he had a perfect right to stop me from going above his squadron, and Admiral Tamandaré said he should do it. I told him that Admiral Godon had no business to interfere in the matter. Admiral Tamandaré replied that nevertheless he must stop me. He knew I was unpleasantly situated, that my expenses were heavy, that if I wanted any money I could have it; that I could also have a steamer to go back to Buenos Ayres whenever I desired. (I wrote all this in my letter of April 27, 1866, to Mr. Seward.) I replied that I did not want his money, and did not want his steamer, but that I did want to get to Paraguay, and that I should get there. We parted in no very pleasant humor either of us. After my first interview with President Mitre, when he told me I must wait until he had sent to Buenos Ayres, I wrote an account of the interview I had with him to Mr. Seward. And after the interview I had had with Admiral Tamandaré, in which he said I could not go there, but that I could have money and steamers, or anything else, so that I did not go through, I also wrote an account of this interview to Mr. Seward. It was after my interview with Admiral Tamandaré that I went to see President Mitre again, and delivered the letter of his minister. He seemed to be very much embarrassed because he could not carry out what his government had promised. He said he would communicate with Admiral Tamandaré, with Octaviano, and with other high officials, and see if he could not arrange it, and would advise me the same afternoon. An hour or two afterwards he sent me a little note that they had come to no conclusion, as I have stated, and that he would write me at Corrientes. I went to Corrientes, and subsequently, after other visits and several letters passed between us, addressed a protest to President Mitre, which I will read as a part of my testimony, for the purpose of showing more clearly how I was delayed and humbugged by the allies. It is dated at Corrientes, July 21, 1866, and is as follows:

"CORRIENTES, *July 21, 1866.*

"SIR: On the 26th of last month I had the honor of receiving, by hand of your secretary, Lieutenant Colonel Don José M. la Fuente, your esteemed favor of the 22d ultimo. In that letter your excellency informed me that circumstances entirely foreign to your desire to give an answer to my oft-repeated question whether or not I should be allowed to pass through the lines of the allied forces to Paraguay, had prevented your giving me a definite answer; but that, being desirous of showing due consideration to the matter, you had dispatched your secretary to make verbal explanations of these circumstances.

"The explanations made by Colonel la Fuente were these: That the Brazilian special minister, Señor Octaviano, was expected to arrive very soon at the seat of war, and it was the desire of your excellency to confer with him before granting me a final answer. The secretary further assured me that within two or three days after the arrival of Señor Octaviano at the headquarters of the army, I should have the final reply of your excellency. Within two hours after this interview with your secretary, a steamer arrived in this port having on board the Brazilian minister. A day or two after he left for the army, and though since then nearly four weeks have elapsed, I have received no such reply as I was promised in two or three days on your behalf, by your secretary.

"It is now nearly six months since I first called on your excellency, and made known my desire to pass over to the country to which I was accredited by my government. The opinion you then expressed to me was that I was entitled to pass through without interruption to my destination, but that you preferred to get the opinion of your government on the question before taking any action upon it. I accordingly waited until such opinion was obtained, and then, as it corresponded with that previously expressed by your excellency, I did not suppose I would have any more trouble or difficulty in reaching the capital of Paraguay. But month after month has passed since I had the honor of delivering personally into your hands the letter of Señor Elizalde, in which he, as minister for foreign relations, requested your excellency to furnish me such facilities of passing through to Paraguay as he had promised me. Your reply then was that circumstances had so far changed since my former interview that it would be again necessary to consult your government. Since then I have repeatedly, personally and by letter, requested your final answer, and each time I have been told that within a very few days I should have it, so that there has not been a day for the past four months when I might not reasonably have expected such a decision from your excellency as would have left me at liberty to go to Paraguay, or, if the decision was unfavorable, would have justified me in returning to Buenos Ayres or Montevideo to await the instructions of my government. But this decision I have not yet received, and have, as it were, been compelled to remain with my family in this town of Corrientes, which all the while has been a city of hospitals, full of sick and wounded, and every way unhealthy, disagreeable, and very expensive.

"To what extent and under what circumstances a nation at war with another may rightfully, and without giving just cause of offense, detain the accredited minister of a third and friendly power, and prevent him from reaching the government to which he is accredited, I do not propose to discuss. That a nation at war has a right to guard its lines and prevent any one from passing over into the enemy's territory at a time when active operations might thereby be embarrassed, I do not and never have questioned. But as, since my first visit to your headquarters, there have several times been weeks at a time when there were no active operations going on, I am unable to see how that my passing through to Paraguay could in any way cause embarrassment or affect the result of the war.

"It is unnecessary, as it would be improper, for me to remind your excellency of the system of international law that has in the course of many generations grown into established usage, and under which the diplomatic agents of all friendly countries are entitled to certain privileges and immunities alike in the countries through which they may pass as in those to which they may be accredited. Nevertheless, I may allude to the fact that this system or code recognizes the absolute independence of all diplomatic agents of any local authority. This immunity results from the necessity that in time of war there should be some persons who may be independent of the belligerent powers to pass between them, and who may be at liberty to reside in the country where they are accredited, subject only to the laws of their own government, and free from molestation or hindrance in passing through other friendly countries to or from their own legation. By reason of these immunities and privileges, the ministers of foreign countries have often been instrumental in averting war, and sometimes initiating terms of peace, or mitigating the evils of war. This exemption from local laws is so important a privilege that it underlies the whole system of the diplomatic service of the world, as it is, to a great extent, by reason of the immunities and exemptions enjoyed by the ministers of foreign and neutral nations, that they are enabled to exert their good offices at a time when the subjects of the belligerent nations are exposed to liabilities and suspicions that may render their interference dangerous to themselves and embarrassing to their governments. But if such diplomatic agents may be detained at the pleasure or caprice of one of the belligerent parties, there is an end to the whole system, for what minister of a neutral power will venture himself in the territory of a nation that may prevent his return to his post of official duties? Such an act would not be so much against the enemy as against the friendly power whose agent it restrained. No nation has a right to say to another that because it is at war with a third, therefore this other shall not have a diplomatic agent to reside near the government of its enemy. The government of the United States have a right to send a minister to any recognized nation in the world, and it would not comport with its dignity to ask permission to do so of a third power with which such nation happened to be at war. It has as much right to have a minister at Asuncion as it has at Buenos Ayres or Rio de Janeiro, and when it is prevented from the exercise of that right, as it has been during all the time of my detention here, it will not be thought unreasonable should it regard the action of your excellency with serious concern as a violation of the undisputed rights of one of its agents. Supposing at the time this war commenced, or at a later period, our minister at Buenos Ayres, Mr. Kirk, or our minister at Rio de Janeiro, General Webb, had found himself within the military lines of the Paraguay army, and had been detained there as long as I have been delayed here, what would have been expected of the United States government in that case? Would it not have regarded such an act on the part

of Paraguay as a great indignity, and would it not have been justified in resorting to extreme measures in vindication of its violated rights? And in what does my case differ from that of the one supposed? Will not my government be justified in taking the same means of vindicating the rights of its humble minister to Paraguay as it would be were our minister to Buenos Ayres now detained within the lines of the Paraguay army? It has been the object and intention of the United States in this war to observe the strictest neutrality. If it has not done so, it is because your excellency has denied it the privilege of having a diplomatic representative in Paraguay the same as it has in Buenos Ayres and Rio de Janeiro. Of this partiality, however, it is only for Paraguay to complain.

"It is with extreme regret that I find myself compelled to speak, after so long a delay, of my detention in this place, and to enter, as I now do, most earnestly, my protest against it. I protest against the detention as a violation of the laws of nations and of all diplomatic usages and courtesies. I protest against the detention as unnecessary and unlawful in itself, and I protest against the manner in which it has been effected. If it was your purpose to thwart the wishes of my government, and prevent me from doing that which it had ordered me to do, I certainly had a right to know it long before this. I protest against the repeated intimations and assurances I have from time to time received that within a few days a final answer should be given me, when now nearly six months have passed and such answer has not yet been received. I submit that the United States have ever shown such friendly sentiments towards the government and institutions of the Argentine Republic as to entitle its accredited agents to the customary privileges and courtesies accorded to diplomatic persons. Such privileges I consider have not been granted me, and, therefore, I take this occasion to make my formal protest, and at the same time to express to your excellency the assurances of my most distinguished consideration.

"CHARLES A. WASHBURN,
"United States Minister to Paraguay."

"His Excellency General BARTOLOMÉ MITRE,
"President of the Argentine Republic, and Commander-in-Chief of the Allied Army."

To that letter I received an answer, in which President Mitre undertook to justify himself for his course towards me, which answer I will also read.

[Translation.]

"HEADQUARTERS, TUYUTY, July 24, 1866.

"SIR: I have had the honor to receive the note of your excellency, dated the 21st instant, in which, making reference to the diverse circumstances that have intervened since you presented yourself, soliciting a passage to the Paraguay territory in order to continue there your diplomatic duties with which you were charged by your government, you terminate your note by protesting against the delay of a definite answer on that matter, in the supposition that it may have been the mind of the Argentine government or of the allied governments to hinder the United States from having a diplomatic representation in Paraguay.

"Without entering on my part into a discussion of the point of international right that your excellency touches upon, I limit myself to consider the acts of which you make mention, referring to whom it pertains such discussion, as likewise the consideration and answer to your protest if it should take place.

"When your excellency presented yourself for the first time at my headquarters soliciting, in terms most frank and friendly, your passage to the Paraguay territory, the operations of war against the republic of Paraguay had not yet commenced, and all the allied forces, land and naval, were yet in Argentine territory. I then manifested to your excellency that I believed that it would not be inconvenient that you should continue your voyage to Paraguay, but that this being a matter that pertained to the decision of the government, in which it ought to co-operate with its allies, and not being myself in the exercise of the executive power, I would refer it to my government in order that, with the consent of said allies, it should dictate to me the line of policy that I ought to pursue. Your excellency having assented to this, returned to Buenos Ayres and obtained from the Argentine government, with the approbation of their allies, the passage which you solicited. But in these circumstances, the admiral of the allied squadron being in Montevideo, mentioned to the United States admiral whom he met there, that there would be no obstacle in the way of the minister continuing his voyage to Paraguay all the while that things should be in the state in which they then were, that is to say, the allied forces being in Argentine territory, as when your excellency honored me with your visit at headquarters; but that such a thing could not take place after the allies should establish their line of war, since it was a right recognized by all nations, that the military lines of belligerents could not be crossed by neutrals, whatever might be their character, except by an express concession, and in so far as it would not damage their arrangements or prejudice their operations. This

principle was recognized, without any restriction, by the admiral of the United States, declaring that we are in our perfect right in not allowing any neutral to cross our lines of war once established.

"From unforeseen accidents, and in circumstances that are made clear by our confidential correspondence, your excellency arrived at Corrientes after much delay, at a time when the invasion of Paraguay was already effected, and when our lines of war controlled their coasts. Thus far the circumstances had varied, as your excellency may yourself remember. Notwithstanding this, being desirous of giving to your excellency a proof of esteem towards your person and of the consideration of the allied governments towards that of the great republic of the United States, I referred it again to the decision of the allied governments, a proceeding to which your excellency willingly gave your assent.

"I then thought, as I manifested to your excellency, to be able to give very soon a definite answer to the question; but the minister plenipotentiary of Brazil not finding himself authorized to decide the case, the definitive resolution of the allied governments being yet pending—having to make their communications through such long distances, and in the midst of the pressing engagements of a war to which they have been provoked without reason and without justice—it has not been possible for me to give such answer to your excellency in my quality of general-in-chief of the allied armies, in which I have only been a simple intermediary, without assuming in any case the character of a diplomatic personality to treat or discuss with your excellency, for which reason I have limited myself always to communications confidential and friendly; this also being the reason for which I sent my military secretary to your excellency to give some explanations in my character.

"Not having, then, to the present time obtained any definite answer from the allied government, from the circumstance that it has not been possible for them to act in concert, it is not possible for me to accept the conclusions that your excellency deduces in the note to which this is an answer, neither the diplomatic personality in which you invest me, nor to take into account the protest that you make in consequence.

"Notwithstanding, I cannot let pass in silence that, in compliance with the instructions of the allied governments to permit no one to cross over lines of war, they have had in view only the exercise of a perfect right, a right explicitly recognized by the admiral of the United States, before that your excellency commenced your voyage on distinct conditions, and that, this being in harmony with the practice of all civilized nations, and as the exercise of their own right, it cannot give offense to a third; and it is correctly deduced from this that the allied governments, in making use of their own right in establishing a general rule for all, have not had in view to offend any other, and much less that of the United States, respecting which they cherish sentiments of confraternity and sympathy.

"With only this, I hope that your excellency will yourself acknowledge the violence of your deduction, when, starting from the fact of a definite answer not having been given to this late time, you suppose that the intention of the allied governments may be to prevent that of the United States from having a diplomatic representative in Paraguay, which cannot be deduced, not even from the refusal itself, since it would import only the use of a proper right, foreseen and acknowledged beforehand; so much the more as your excellency having obtained, in time fit and opportune, the definite answer that you solicited and the passport to continue your journey to Paraguay, and having arrived at Corrientes at a time when the circumstances under which condition the passport was given had entirely changed, the act itself fails to serve as a base for such deduction.

"Therefore I refer everything to my government, in order that, together with the allied governments, it may decide this matter and may give to your excellency in the form, and by such action as may pertain to it, the definite answer, taking into consideration your protest, if there should be occasion for it, leaving this correspondence for my part thus terminated, since finding myself engaged in an active war and of daily combats, and without the exercise of other than military functions, it is not possible, neither is it permitted me, to enter into diplomatic disputes.

"Having thus answered the note of your excellency, I cannot avoid showing that if the sentiments of the government of the United States have been friendly towards the government and the institutions of the Argentine Republic, greater and more spontaneous have been those that the Argentine people and government have manifested towards the government and institutions of the United States in times of real trial, the same to the diplomatic agents, including your excellency.

"With this motive, I have the honor to salute your excellency with my most distinguished consideration.

"BARTOLOMÉ MITRE.

"His Excellency CHARLES A. WASHBURN,

"Minister of the United States in Paraguay."

To my letter addressed to Admiral Godon, August 8, I received an answer dated September 16, in which the admiral still declines, as follows:

"BUENOS AYRES, August 8, 1866.

"SIR: Since my last interview with you in the city, in January last, I have made repeated attempts to reach my post of official duties in Paraguay. I have been unable to do so from the fact that the allied powers now at war with that republic have refused to grant me permission to pass through their military lines.

"I have therefore been waiting here and at Corrientes, nearly all the time at the latter place, till I could inform my government that you had declined to furnish me with a war vessel to take me to my destination, and that the allies had refused me a passage through their lines.

"By the last mail from the United States, being then at Corrientes, I received a dispatch from the Secretary of State, in which he informs me that the President is very much surprised at the course of the allied commanders in detaining me, as it is a proceeding both discourteous and illegal. He also sent me a copy of a letter which the Hon. Gideon Welles, Secretary of the Navy, had addressed to you, in which you are instructed to furnish me with a war vessel and such convoy as might be necessary to take me to Paraguay. Copies of these two letters are inclosed herewith.

"I had already anticipated the instructions of the Secretary of State, and had requested of the commander-in-chief of the allied armies a passage through their military lines for myself and family. But it has been persistently refused, and I therefore request you to provide me with a war vessel and the necessary convoy, in accordance with the instructions of the government.

"I arrived at this place yesterday from Corrientes, and shall await here, or at Montevideo, the arrival of so much of the squadron as you may detail for the voyage to Paraguay.

"I am, sir, very respectfully, your obedient servant,

"CHARLES A. WASHBURN.

"Acting Rear-Admiral S. W. GODON,

"*Commanding United States Brazil Squadron, Rio de Janeiro, Brazil.*"

"SOUTH ATLANTIC SQUADRON, FLAGSHIP BROOKLYN,

"*Rio de Janeiro, September 16, 1866.*

"SIR: I have to acknowledge the receipt of your two letters, dated respectively the 8th and 28th of August—the first in duplicate, inclosing copies of a dispatch from the Secretary of State to yourself, and also a copy of a letter from the Secretary of the Navy to me, containing instructions under which, in a certain contingency, I was to send you in a vessel of the squadron to Asuncion.

"In anticipation of the contingency therein alluded to, I had given orders in the month of July to Commander Crosby, of the Shamokin, to hold himself in readiness for immediate service up the river Paraguay.

"The letter from the Secretary of the Navy leaves me in no doubt how to act in regard to his orders. It informs me that you have been instructed to ask the commander of the allied forces and the President of the Argentine Republic, in a respectful manner, to give you a safe-conduct through the military lines, which it is believed will be accorded to you; but in the event of its not being done, you have been further instructed, without unreasonable delay, to apply to me for a passage in a war vessel with sufficient naval escort to your destination.

"Clear as these instructions are, they are made even more distinct by the dispatch of the Secretary of State to yourself, a copy of which you have been kind enough, under directions from the department, to furnish me. That dispatch, after alluding to the 'inconvenient' and 'not altogether courteous' delay caused you in returning to Asuncion, but without desiring to regard it as an 'unfriendly proceeding,' directs that, should the hindrance still continue, you are to address yourself at once to the commander-in-chief of the allied forces, and to the President of the Argentine Republic, informing them that you are proceeding as resident minister for the United States at Asuncion; that you are charged with no duties inconsistent with the neutrality which the United States has maintained in the war in which the allies are engaged with Paraguay, and to ask them, in the name of the United States government, to give you, together with your family and domestics, safe-conduct through the military lines.

"After having addressed this letter as directed, the dispatch adds, 'should the hindrance not cease within a reasonable time,' you will then deliver a copy of these instructions, together with a copy of the accompanying letter of instructions from the Secretary of the Navy to me, and will proceed in such vessel as I shall furnish to the place of your destination.

"You will perceive, sir, from the preceding synopsis of your and my instructions, that the contingency alluded to has not arrived; and that I would not be carrying out the spirit of the orders of my superior, or the evident intention of those from your chief, by immediately sending you to your destination in a vessel of war, as you request.

"The Secretary of State evidently desired to show the Argentine government that the obstructions interposed by the commander-in-chief of the allies to your passage through the military lines to your legitimate duties was regarded as an act 'not courteous,' and one which was causing an agent of the United States inconvenience; that, as there was no good reason for such a course, they were requested not only to discontinue it, but to aid you with a safe-conduct through the military lines.

"Therefore, until you receive from the authorities named a refusal to comply with that request within a reasonable time, my orders will not justify me in construing the hindrance to your movements as a proceeding sufficiently 'unfriendly' to require me to send you with an armed escort through the blockading squadron.

"From the character of the dispatch of the Secretary of State, it is clear to my mind that no violent measures are either desired or anticipated, and the Secretary of the Navy distinctly informs me, as you will notice in his letter, that from the general tenor of your last communication, it was probable that the allies would desist from any further opposition to your progress.

"It is therefore with regret I find that your letter, which I have been expecting, does not state that you have addressed the commander-in-chief of the allied forces, or the President of the Argentine Republic, for the purpose of obtaining the desired safe-conduct, or that you have allowed a 'reasonable time for the hindrance to cease' before making the application for a vessel and suitable naval escort to take you to your destination.

"I have not been unmindful of the inconvenience and seeming discourtesy of the allies in keeping a minister of the United States from passing through the military lines to his post, and have communicated with our acting chargé d'affaires to this government in regard to it, from whom I learned that the obstructions would be removed. I feel satisfied that the same information will be given to you when you address the President of the Argentine government, as directed by the Secretary of State.

"The truly friendly relations that exist between the allies now at war against Paraguay and our own government, disposed me still more to refrain from committing any act which would seem like arrogance in a great and powerful nation like the United States, towards governments too weak to resist it, although they might in their very weakness venture to commit indiscretions, as in the present instance.

"Should a refusal of safe-conduct follow your letter to the Argentine government and commander-in-chief of the allies, I will then consider under my instructions that they have committed an unfriendly act, and that the occasion has arrived for the dignity of the United States to be sustained by furnishing you with a vessel and suitable naval escort to carry you through the blockading squadron to your station.

"Even should a safe-guard be offered you for your passage through the lines, as is fully anticipated, I will, under all the circumstances of delay, still find it advisable, if you desire it, to furnish you with a vessel to carry you in a friendly manner, but with national dignity, to the government to which you are accredited. I shall await and hope to receive an early communication from you.

"I am, sir, very respectfully, your obedient servant,

"S. W. GODON,

"Acting Rear-Admiral, Comd'g South Atlantic Squadron."

"Hon. C. A. WASHBURN,

"Minister Resident for the United States at Asuncion."

That letter you will notice is dated September 16. I had been ten months already trying to get through. I had been long at Corrientes without being able to get permission to go through. President Mitre had refused to have anything more to do with the matter, and Minister Octaviano would not answer my letter.

Q. State whether Admiral Godon, prior to writing this letter, had been informed of all the correspondence between yourself and President Mitre?

A. I do not know that he had. I wrote to Mr. Kirk about it, and Mr. Kirk replied that he had told Admiral Godon, and that the admiral had said he would not under any circumstances send me up the river; and I stated that in my correspondence with Mr. Seward, although Mr. Kirk now says that he does not remember all the circumstances. It was for that reason I did not consider it was of any use to write anything further to Admiral Godon. I had also other reasons, having heard of his remarks, which were far from complimentary to me. After I received this letter from the admiral, I thought I could not again, with propriety, write to President Mitre; that I could not well repeat the letter I had written a day or two before; and if I did, I feared it would compromise the government more a thousand times than to ask for a gunboat. I knew perfectly well that if a gunboat went up they would not fire into it, and that there would be no sort of difficulty, but that if I wrote a letter I should probably have at least sought to have used strong terms, and if I still received a refusal it would complicate the case and make it very much worse. I supposed the admiral would respond to my application to furnish a gunboat, and that that would be an end of the matter. I therefore returned to Buenos Ayres, and was very much astonished when I received

the admiral's letter basing his refusal on the ground that I had not obeyed the instructions of my chief. I wrote to him virtually telling him that if he would attend to his business I would to mine. When I came down I was not aware that orders had been sent by the admiral for the gunboat to take me up, and I was invited by the minister to confer with him personally, which I did, stating the situation fully. There was nothing official in my correspondence, because I was not officially accredited. Mr. Kirk had left to go home, General Webb was away, and I was left there alone, with everybody holding official position against me. After I received this letter from Admiral Godon I did not know absolutely what to do. The allies would not allow me to go through. Mitre had refused further correspondence. Octaviano had declined to answer my letter. I had told Admiral Godon a long time before, when I met him in December, that if I could get out of the difficulty and return without disgracing the country and disgracing myself, I should be very glad to do so, but as I considered that the allies had no right to stop me, and I had no right to allow them to stop me, I felt that I must go on. I was hoping that the new minister, General Asboth, the successor of Governor Kirk, would arrive. Governor Kirk had gone home, and General Webb had also gone home. The admiral was not disposed to aid me in getting to my post, and I was in such a situation as I never hope to be again. I wrote to the admiral a long letter, which is here, explaining to him my circumstances, and giving the reasons why I had not made another application to President Mitre. I will read an extract from it:

"In my letter to you of August 8, I informed you that the contingency contemplated by the instructions both to you and to me had arrived, as I had done the very thing but a few days before my instructions reached me which I was ordered to do by the Secretary of State; and there was no reason why I should do the same over again. In fact, I could not do it, for the reason that President Mitre, in reply to my last letter to him, said that for his part the correspondence must close. Had you known all the facts of the case, I would fain believe you would not have hesitated a single moment in sending the orders for one of the war steamers now lying in this river to proceed at once to Paraguay; and that you may now be fully informed of the repeated indignities to which I have been subjected during my long detention within the military lines of the allies, I now write you more at length, though not with a view to influence your action. I considered that I was the proper judge and interpreter of my own instructions, as you were of yours, and that when I sent you my last letter my duties had been fulfilled, and if you had conformed to your instructions, and not constituted yourself the interpreter of mine, there would have been no occasion for question or argument."

In that letter I stated what I have stated here, specifically, in regard to the difficulties of my situation. I got a reply which I think I can quote from memory literally; it was about as follows:

"SIR: Your letter of October 1 has been received.

"Yours, respectfully,

"S. W. GODON."

I sent a copy of my letter to Mr. Seward with my letter to Admiral Godon. I had heard in the meanwhile that after Admiral Godon had got this letter instructing him under certain contingencies to send me on a gunboat, with a convoy if necessary, to Paraguay, and I had supposed when I got it that I would find him at the mouth of the river prepared to receive me. But I was surprised to learn that instead of going this way he went off north to Bahia, and when he would get this letter of mine of the 8th of August, I did not know. But it went to Rio, and I suppose he was further north. He had gone north for what business I do not know, unless it was to find a pretext for longer delay.

In the meanwhile I did not know what I was to do. The admiral had declined to send me up until I had done certain things which I thought I ought not to do. But he did send orders, after I had been delayed nearly a year, that a gunboat should go up.

Q. What was the date of those orders?—A. October 5, 1866. He sent the gunboat to take me up on the ground that General Webb had advised him that all obstructions had been withdrawn. I did receive a letter from General Webb, stating that he was informed that the obstructions had been withdrawn. I attached no importance whatever to that promise made to General Webb, as I had been humbugged and delayed and deceived so often by the allies.

Q. What information had General Webb that led him to write this letter, stating that all obstructions had been withdrawn?—A. It was known there was great scandal about my detention, and a great deal was said in the newspapers that was very disagreeable to me. Mr. Webb may have had a private letter from me in regard to it. He at once saw the impropriety of my detention, and insisted that the obstructions must be withdrawn. They (the Brazilians) told him they would be withdrawn, and on the strength of that he wrote me this letter. I wrote to the admiral that nothing had been done by the Brazilians to remove the obstructions. Admiral Godon did not answer my letter, but passed it over to General Webb, who answered it.

By Admiral GODON:

Q. Do you know that I asked General Webb to answer that letter?—A. I do not.

Q. Do you know that I told him he ought not to write that letter?—A. He never told me anything of the kind. I know nothing more than the letter itself expresses. Even after I had got to Paraguay, notwithstanding all these difficulties, I learned from different sources that several of my friends in the squadron—and I believe nearly everybody in the squadron of the higher grade of officers were my friends—had been very much persecuted by Admiral Godon for that reason. I heard, in the meanwhile, that the United States proposed mediation, and that it had sent instructions to General Webb, and General Asboth, and myself, respectively, to see what we could do in the matter of mediation. But I had not got any letters, official or otherwise, for a long time, and I thought I would try and ascertain what was going on in regard to the matter. I went down to the front, and went through the allied camp to see if any mail matter had come for me. I heard while there that General Asboth was expected up, and that this matter of mediation had been discussed at considerable length in the newspapers of the place. I returned, and had been back only two or three days—had come up from the army to Asuncion—and I got a telegram informing me that Captain Kirkland, of the Wasp, had arrived at the camp with dispatches for me. I went below to meet him, as he was not allowed by Lopez to go up to Asuncion. I ascertained that General Asboth had not come on board the steamer, although he desired to very much. And it appears from the correspondence that, though Admiral Godon was sending up a gunboat to bring dispatches to me, and General Asboth thought it very important and necessary that he should have a conference with me in regard to the proposed mediation, Admiral Godon refused him permission to travel on a United States gunboat, and he did not think it very proper to travel on a private vessel when a gunboat was going up; and, therefore, he did not come to visit me. But we considered—I considered—that we were no more bound to consult admirals than other individuals in regard to our diplomatic duties.

Q. Did you not state to the Secretary of State that I had had some communication with the Brazilian minister that led both you and Mr. Asboth to suppose that I had conceded something to those gentlemen?—A. I stated that in one of those letters. When I was in the allied camp of the Marquis de Caxias I inquired of him whether he had heard anything in regard to General Asboth, and whether he was coming up or not. He said no, he thought not. He said he had got a letter from—I did not understand who—but it was evidently an official letter, and he read it to me. It was in substance to this effect: That General Asboth had desired to come up to Paraguay to consult the American minister there; but that they, the writers of the letter, whoever they were, had arranged it with Admiral Godon so that he should not go. That was the purport of it.

Q. And you considered it necessary to write to the government, on the strength of the statement of the Brazilians, that I had done this?—A. I did do it.

WASHINGTON, D. C., *Wednesday, April 14, 1869.*

Hon. CHARLES A. WASHBURN appeared and resumed his statement:

I would remark that this delay to which I was subjected by not having a gunboat when I first arrived at the Plate, had the effect of causing me to be suspected very much by the allies. I persisted in going through, notwithstanding all the obstacles put in my way; notwithstanding that Admiral Godon refused to send a gunboat with me, and I never would take money or anything else from them. I would state on two different occasions I was offered money, once by Admiral Tamandaré. He made no secret of it. It was to keep me quiet, and to induce me not to go through. And another high official came to me afterwards in Corrientes, and made a proposition that I should accept money. I declined. He said it was a confidential affair, and I do not desire to make use of his name unless the committee desire it. He was a Brazilian, high in authority. He persisted, and finally the result was that they thought or pretended to think that I must be somehow in the interest of Lopez, or a friend of Lopez.

By Mr. ORTH:

Question. Upon what terms were you with Lopez prior to your visit to this country?—Answer. Our relations were amicable enough.

Q. How were those relations affected by your long delay in returning; what impression did it make upon his mind?—A. I suspected that my delay would be construed by him against me; that he would think I was delaying in the interest of the allies, and that I should lose any influence that I might have had after I got there, by that delay. And I am satisfied that was the case, to a certain extent. In fact, it had been reported there that I had been bribed not to go through. Yet when I did force the blockade, he made a great flourish of trumpets to his own people, to show that the Brazilians had been humiliated by my getting through. I was regarded, however, by the allies with such distrust that I was spoken of always by them as a friend of Lopez; whereas I was

not a friend of Lopez ; I was a friend of the Paraguayan people, and hoped Lopez would be used up before he sacrificed all of them. Nevertheless, it was my duty as a minister not to show that feeling, and I ostensibly kept on good relations with the head of the government as far as I could. The allies regarded me all the while as inimical to their alliance and to them ; and their newspapers spoke of me in derogatory terms. They put great impediments in the way of my getting supplies and mail matter—all owing to this delay caused by Admiral Godon, I think, and my persistency in breaking through at last.

Q. Did you ever mention this matter to Admiral Godon ?—A. I did not have any communication with Admiral Godon all that time.

By Admiral GODON :

Q. Was there any communication ever addressed by Mr. Kirk about this business, which came to me in any shape, which would place these things before me in any possible form ?—A. I know of no communication from Mr. Kirk to you about it ; I made no formal application to Mr. Kirk. But what I wish to say is, that I was obliged to remain with my family at Corrientes about five months. At that time it was a city of hospitals, very sickly, and we were exposed to a great many inconveniences and humiliations. I heard of people having pretty warm discussions about my position. They said I could not be an American minister, but was an impostor ; that the American government would not permit its minister to be hanging on the skirts of the army instead of going to his post, especially as they had a squadron in the river doing nothing. That was the talk there in Corrientes.

Q. Was that conversation of any consequence ?—A. It was humiliating to me ; that was of sufficient consequence so far as I was concerned.

Q. Was there anything official about it—anything beyond the ordinary talk in the streets ?—A. I did not go out to inquire about that. I heard such rumors ; and this state of feeling existed against me most of the time I was there. And when I got away from Paraguay under the circumstances that I did, when Lopez had set his plans to kill me, as he has killed everybody else, the allies and their press set up a howl against me. It was a great satisfaction to them to abuse me, notwithstanding I exposed the atrocities of Lopez, whom they hated worse than they did me. Besides, this newspaper abuse was caught up by the newspapers in this country, and throughout the country from Eastport to San Diego, in every newspaper I was very severely censured. The delay to which I was subjected was the cause of it all. I was also censured by them for my conduct in connection with Messrs. Bliss and Masterman. But the fact is, Bliss and Masterman agreed with me that the only possible way for me to save their lives was to do exactly as I did. To show that I represented the facts to the State Department, I refer to my letter dated Corrientes, July 27, 1866, addressed to Mr. Seward, as published in the diplomatic correspondence of 1866-'7, vol. 2, page 591 ; also to my letters of August 10, 1866, and September 20, 1866, and September 24, 1866, in the same volume.

By Mr. WILKINSON :

Q. You state that you did not address yourself to the commander of the allied forces and to the President of the Argentine Republic, as instructed by Mr. Seward, before you applied to the admiral for a vessel ?—A. No, I did not do so.

Q. Why did you not do so ?—A. The circumstances had changed since I had written to Mr. Seward, and the President of the Argentine Republic and the commander-in-chief of the army had refused to hold further correspondence with me ; I therefore thought it would be worse than useless to make that application. I wanted to avoid a rupture, and I knew the sight or presence of a gunboat was the only thing that would prevent it.

By Mr. SWANN :

Q. Did you take it as an offensive termination ?—A. No, not exactly ; but it was a termination of the correspondence nevertheless.

Testimony of Rear-Admiral S. W. Godon.

WASHINGTON, D. C., April 14, 1869.

Rear-Admiral S. W. GODON sworn and examined.

By the CHAIRMAN :

Question. What is your present official position ?—Answer. I am the commandant of the New York navy yard, and in 1866 I was in command of the Brazilian or South Atlantic squadron.

Q. When did your command of that squadron commence and terminate ?—A. I sailed

from the United States June 21, 1865, and I returned in September, 1867; I was in command about two years, and had the entire command.

Q. Of what did your squadron consist during that time? Please name the vessels and their character.—A. Of but one vessel at first; the *Susquehanna* was my flag-ship. My orders to the Brazils were, of course, to cultivate the best relations between those countries and the United States, and there was a special instruction to me to endeavor to do away with the unpleasant impression that had been produced by the unfortunate affair of the *Florida*. I first went to Bahia, where this affair took place, and I was then informed that the *Juniata* would be ordered from Charleston, and would meet me. I was told that the *Wasp* would also be there and follow me very soon, and that the squadron would consist of six vessels. Eventually it did consist of six vessels.

Q. At what time?—A. The *Juniata* came very shortly after I arrived there; the *Wasp* came in November or December; the *Nipsic* also came, (a partly sailing steamer;) the *Shawmut* arrived from the Mediterranean, and the *Shamokin* came at a time I do not remember now.

Q. You had command of these six vessels during the whole of the year 1866?—A. Yes, and nearly all of 1867.

Q. Where were you principally stationed during that year?—A. I commanded from Cape Horn to the equator.

Q. Were you during the time you have mentioned superseded, even temporarily, by any superior or other officer?—A. No, sir.

Q. Where was your flag-ship principally stationed?—A. My headquarters was at Bahia, about 1,200 miles to the northward, as it was considered unhealthy in Rio; but I found it was not a central point, and I afterwards changed my headquarters to Rio.

Q. You considered Rio then your headquarters?—A. Yes, it has always been so considered before, and I considered it so. We had our store-houses there.

Q. When did you first become acquainted with Minister Washburn, and under what circumstances?—A. Mr. Washburn arrived in Rio, as he states, some time in September. He came in an irregular steamer, the *Montana*, I think. When the steamer by which he came arrived, she was ordered to be boarded by our men, as was the usual habit. The boat returned, and the officer told me that Mr. Washburn, the minister to Paraguay was on board, and that he had asked him if there was any man-of-war there that could take him to Buenos Ayres. The boarding officer was a lieutenant I think. He came on board, made his report to my fleet captain, and my fleet captain told me what had been said. I said is the minister on board? He said he was. I sent a boat to the vessel and offered Mr. Washburn my services, and invited him to come aboard my ship. The boat returned, and the officer reported that Mr. Washburn had left the *Montana* and gone on shore, but that Mrs. Washburn was on board. I got in my own boat and went aboard to bring Mrs. Washburn on board of my ship, as I was told that the *Montana* was a small vessel and had not the best accommodations. When I arrived Mrs. Washburn was at dinner, and I waited on deck to see her. In the meantime the gig of the *Susquehanna* came alongside bringing Mr. Washburn and Major Ellison, a gentleman from the shore whom Mr. Washburn had met on landing. This meeting with Mr. Washburn on the deck of the *Montana*, was the first time I ever saw him. Mrs. Washburn soon after came on deck, and we had some conversation, and then Mr. Washburn asked me if I had a gunboat that could take him to Buenos Ayres. I said no, I had not. "Why," said he, "there is one," pointing to the *Nyack*. "Yes," I replied, "but she is a miserable sort of thing for your purpose. Besides, I have no control of her, she belongs to the Pacific squadron, and is on her way to the Pacific. But if the officer commanding her is willing to take you there, I shall not put any objections in the way. I shall not withhold any permit."

Q. Had you any authority to command that officer?—A. Yes; I had authority to command all under me; but I had no power to direct vessels belonging to another squadron to my purposes, except by military power, which is a dangerous thing. till I had perfect power if I thought proper to do so.

Q. Did you confer with the captain of the *Nyack*?—A. No, sir; I considered her an unsuitable vessel.

Q. Was Mr. Washburn willing to take passage in the *Nyack*?—A. Mr. and Mrs. Washburn and Major Ellison came on board my ship and dined with me. After dinner we pulled alongside of the *Nyack* and looked at her, and Mr. Washburn himself seemed to think she was not a very suitable vessel; and the request was not made. If the officer had volunteered to take him I should not have said anything against it; yet I would not have taken any responsibility about it at all beyond the fact that I did not deny it.

Mr. WASHBURN. I was told that the *Nyack* was not suitable, and I said substantially that I did not care to go in her.

Admiral GODON. I had nothing to do with sending Mr. Washburn to Buenos Ayres at all.

By Mr. WASHBURN:

Q. Did I ever claim that you had?—A. No, sir.

By the CHAIRMAN:

Q. What do you consider the duties of the commanding officer of a squadron, as you were, when any American minister asks of him conveyance to his destination?—A. It would be difficult to say.

Q. I mean if you had no specific orders from the Navy Department.—A. To illustrate I will give an example: General Asboth came to Rio, and took the place of Mr. Kirk. The mission at Buenos Ayres had been vacant for some time; Mr. Kirk had left, and there was no secretary of legation there; General Asboth came at a time when I considered that it was proper that he should go to Buenos Ayres in a creditable way. I, therefore, told him I would direct the commanding officer at Montevideo to take him to Buenos Ayres, and informed my government of the fact by letter. I give this as an illustration of an instance in which I think it would be proper. I did it of my own discretion. In this case there was no blockade to break, nor anything else in the way; and as General Asboth was duly accredited to the place, did not speak the language, and the mission being vacant, I at once considered it my duty to send him. He did not ask me to send him that I am aware of.

Q. From the circumstance you have detailed with regard to General Asboth, are we to consider that you conceive it to be the duty of the commander of a squadron, if he has no contrary orders to prevent from the head of his department, to facilitate the passage of an American minister to his destination?—A. Yes, sir; I do.

Q. When was your next interview with Mr. Washburn?—A. We met several times afterwards in Rio. The French or English steamer left and there was some conversation whether he would go in it or not. My idea was, and I turn back to it now precisely as my mind was then, that when I knew how matters stood up the river, I would do all I could to take Mr. Washburn to Paraguay. There was a blockade, and there were other troubles then I did not know all about. I had only arrived in Bahia the previous September.

Q. You say that you tendered a passage to General Asboth without his requesting you to do so?—A. I think he did not even ask me. I am not positive.

Q. You say you tendered a passage to General Asboth from Montevideo to Buenos Ayres, because we had no minister there, and because you had a vessel at your command. Why didn't you make the same tender to Mr. Washburn when we had no minister at Paraguay, and when you had a vessel at your command?—A. I stated that Mr. Kirk had left the mission to be filled by a successor; but Mr. Washburn was the accredited minister on leave of absence from his post. General Asboth was a stranger, unacquainted with the country and its language.

Q. What distinction do you make between the two cases?—A. Mr. Washburn had left Paraguay at his own request, on leave of absence, and returned to the United States, and came back and wanted to go up there. I did not send Mr. Asboth from Rio, but from Montevideo. I saw that our mission was left vacant, and General Asboth had in his hands then the very order to ask these ministers there for this passage of Mr. Washburn through the Paraguayan lines.

By Mr. WASHBURN:

Q. Could not General Asboth have got from Montevideo to Buenos Ayres almost any day on a merchant steamer, and was it not very difficult, if not impossible, for me to get from Buenos Ayres to Paraguay without the aid of a gunboat?—A. Yes; there was a blockade in the way, and the question was totally different. In General Asboth's case I could send him up without instructions, and without danger of involving the country in war, and without resistance; and I did what I thought was right. But Mr. Washburn asked me to go to Buenos Ayres from Rio, about 1,200 miles. I would have considered, and offered afterwards, to take Mr. Washburn to Corrientes when it was proper to do so; but not at the time he said.

Q. Didn't I request that I should have a gunboat furnished me to take me from Buenos Ayres to Paraguay, while I was in Rio, leaving out the question of how I should get to Buenos Ayres?—A. Mr. Washburn repeatedly spoke of getting up to Paraguay. At that time (as I said before) I was ignorant of the condition of things there, but I told Mr. Washburn that when I got up there I would see what I could do. My intention was to take him to Paraguay if I could. Mr. Washburn spoke of it, and I spoke of it; I wanted to go myself.

Q. Did you make that intention known to Mr. Washburn at that time?—A. Yes, sir, certainly I did.

By Mr. ORTH:

Q. State what next occurred.—A. I cannot recollect how long Mr. Washburn remained there, at Rio. In the meantime I had many matters to attend to. There were 1,200 or 1,500 tons of coal lying at St. Catharines, intended for the Alabama, and I went down to look

after it, as well as to exercise my guns. When I returned to Rio I found Mr. Washburn still there. The subject of his going to Paraguay came up again. Mr. Washburn spoke to me about it, and I felt perfectly easy about it. I thought when the time came (when I got a vessel) that I would probably be able to do this thing. Then the Wasp arrived, and she had something to do; and the storeship arrived, and I had something to do in connection with that; and from one cause or another—I presume from proper causes, for I know of none that were not faithful causes in connection with my duty—the matter remained unsettled. I had no other feelings that governed me in the matter, but the simple fact that I was doing my duty. My opinion is that an officer must do his duty, faithfully and truly as he best understands it; and if he thinks it necessary to send a minister through a blockading squadron, under fire, to do it; and if he thinks it his duty not to involve the country in a war, not to do anything that would lead to it, and to take the responsibility.

Q. What occurred after your return from St. Catherines?—A. I met Mr. Washburn in precisely the same way as before, on friendly terms, and he remained in Rio possibly a month or six weeks; I cannot state positively what length of time. The matter was talked over, and I often said to him that I would do all I could when I got up there, but that I must see how things were myself; that I could not leave at that time; that I had no vessel to go with. I think it likely the Wasp had arrived, but she was not suitable. I admit everything that Mr. Washburn desires with regard to his wishing me to send him there, and my desire to help him whenever I could. There were many detentions, and I mention this because I do not recollect the times and details; but my intention was to go down at the proper time. Just as I was about to sail, however, the storeship arrived, which annoyed me, because I would have preferred being down there at the time. I did go, as soon as I could manage it, to Montevideo. I was expecting the Shamokin and another vessel at this time. The Shamokin was a very nice river vessel, well adapted for the purpose of taking Mr. Washburn up the river. She was a long time coming out. I left the Juniata there, and had written to establish myself at headquarters at Rio, and I went down, stopping at St. Catherines, to make use of this coal, and finally arrived at Montevideo. As Mr. Washburn says, he had written me a private letter and followed it down the next day. We had a talk over these matters, and I found, as I got nearer the seat of action, a very different state of things to that I had been led to believe. I found there was great risk in this matter. There was a blockade as well as military lines. The Paraguayans had just been driven back from Corrientes, and it had been blockaded by the Brazilian squadron in the river. The proclamation of blockade had been issued, and it was a contested point. Mr. Washburn's letter to me was a friendly one, and I treated it as such, and was glad to get it. He gave me some information I was glad to receive. He came on board with a friend, and they dined with me, and remained aboard all night. The difficulty that afterwards occurred between us was a diplomatic difference entirely, so far as I know. At Montevideo I called on my acquaintances, among others the French admiral. I had a talk with them on these subjects. There was a great confusion of ideas. The French, the Italians, and the Spaniards, were all for breaking the blockade. I did not agree with these gentlemen; there was a diversity of opinion. I went up to Buenos Ayres shortly afterwards by official invitation of Mr. Kirk and Mr. Helper, our consul, and helped arrange some matters where there had been a difference of opinion between them. While there I visited Mr. Washburn, and this matter was talked over again. It was a constant subject of conversation, and it was growing upon me very clearly now. Mr. Washburn talked about the matter very urgently, and then I told him my reasons about Paraguay. They were, that it was a blockaded place; that there were no Americans there that I knew of, and that we had not a straw of interest in that country. I had called upon Mr. Elizalde, an influential man there, and upon every American merchant in Buenos Ayres. Mr. Hale, a particular friend of Mr. Washburn, and who would have liked very much to have Mr. Washburn go up, told me there was not a particle of interest to us there in any way. Mr. Zimmerman felt the same way. I told Mr. Washburn all this. But I would not make up my mind until I saw Tamandaré. He told me the army was about to move up; that they held Corrientes in blockade, and hoped that I would not resist it; that the English, the French, and all the European nations were very anxious that the place should be opened. I had seen that the foreign naval commanders there, the Italians especially, were all desirous of breaking the blockade, but none of them cared to run the risk. There the matter stood. They hovered about Corrientes, but they didn't care to do it, and go beyond. The case now was perfectly clear in my mind. I had no interest in breaking that blockade, or do anything that might involve a question of war with the United States, and I left with the full determination that I would not break that blockade.

Q. Would the passage of a war vessel of a neutral and friendly power through that blockade be regarded, either in law or in fact, as the breaking of the blockade?—A. Yes, sir; it would have been in law and in fact a breaking of the blockade, and I considered it so.

Q. Were any war vessels of any other nations passing up and down there at that

time?—No, sir; none. And I will here state that the French three months afterwards sent the *Decidé* steamer up, and they sent her back. The *Decidé* went up there at the suggestion of Mr. Becour; but they stopped the vessel and the admiral had the mortification of being sent back. He returned to Rio and steamed around my ship, lowering his flag to me as he passed, because he wanted to gain the American interest in his behalf, and he wanted me to send vessels up there on that account. Mr. Washburn took question on the subject of going up as high as Corrientes—not to Paraguay; that part I had dismissed. I had made up my mind that I could not involve myself in these subjects without some more instructions than that. I wanted to know something more about it, and that question was then settled. But I did say to Mr. Washburn, that later I would send him up in a sailing vessel to Corrientes, and Mr. Washburn said, "If I could get up to Corrientes I could manage then probably to get over;" and he said on one occasion that he would go over in a canoe.

By Mr. WASHBURN:

Q. Didn't I want a gunboat to take me up that far, saying that I believed that the presence of a gunboat would, in itself, induce them to let me pass through in some way, even though they objected to the gunboat going through?—A. I recollect nothing of the kind. At that time it was unhealthy. The *Wasp* could not go up there and return at that time with the coal she had. It was the sickly season. Mr. Washburn urged that it was not sickly, but the heat was intense, and there was actual sickness at the time, and I did not want to send that little vessel up to Corrientes, as her cabin was hardly larger than this table. The distance was 1,000 or 1,200 miles up the river, and it would have required the consumption of three, four, or five thousand dollars' worth of coal. The cabin of the steamer must be taken from captain and given to Mr. Washburn, and the men and officers would have to lie upon the deck of the vessel. There were many reasons of that kind which made it wrong for me to send a vessel up to Corrientes; I do not recollect any other special reasons now. I was responsible for what I did, and when the thing was clear in my mind, I did not hesitate to take the responsibility. I had, however, been frequently reminded that Mr. Washburn belonged to an influential family here in the United States. If I did anything that was wrong I had no political friends. This matter was brought to my mind; General Webb wrote me a note to that effect some time afterwards. I knew that was a thing that would help me a little in what I was doing. If I got a little wrong, I would be helped by that, but if I got a good deal wrong I should not be helped by it at all. I had to answer for my own acts. This I mention to show that I had rather the disposition to do it. Still I decided I could not, and when my mind was made up to that, I determined not to. I was a good deal exercised to come to a fair and proper conclusion about this matter, but when I did I went to Mr. Washburn and told him that as to going up to Paraguay it was quite out of the question, and going up to Corrientes is a great inconvenience. You are here; you could do no good there, and when the season comes around, say in two months, when we can get the southeast breezes, and a vessel with a better cabin—the *Nipsic* or the *Shawmut*—one of those vessels can go up the river to Corrientes, sailing most of the way, only using steam to go around the bends of the river, at no great cost of coal. The officers and men then can be on deck without being injured by the mosquitoes. There is no haste in this matter; and then I will send one of those vessels up to Corrientes, and if the officers are willing to make these arrangements with you, I shall be most happy to oblige you. I said I would do that in the month of April or May, as a convenience to Mr. Washburn. That matter was then understood, as I supposed. I said this thing is an uncomfortable thing to me in every way, but if things remain as they are, if I can do this thing I will do it—that is to Corrientes; beyond that I could not think of doing it. Mr. Kirk then told me that Mr. Washburn was about to report me to the Secretary of State. I said I did not see why he should. He said that was what he was doing. Captain Taylor of the flag-ship was present, and Mr. Kirk added that he was doing this because I would not take him up the river. I expressed my surprise, and said, Mr. Washburn knows perfectly well I cannot do it. The thing is understood. I asked Mr. Kirk, "Did he say that you were to repeat it to me?" "Yes, he did;" and he said he had seen part of the letter Mr. Washburn had written. I went immediately around then to see Mr. Washburn, and said to him, "Mr. Kirk has told me you are going to report me to the State Department. I think it a very remarkable fact that you are censuring me to the State Department." Mr. Washburn replied, "I did not say I was going to report you," or didn't agree exactly to the word "report."

Mr. WASHBURN. Was it not that I was going to defend myself, and justify myself from blame?—A. I don't discuss it. That is what Mr. Kirk said, and I referred to Captain Taylor, who was present. I then said, "Mr. Washburn, I had intended to have done this thing with the best and kindest feelings, but since the matter is to go to the State Department, I would prefer letting matters now stand until I get regular orders on the subject." This occurred in the month of January, 1866, I presume.

By Mr. WILKINSON:

Q. How long had Mr. Washburn been there waiting at that time?—A. Since about the 4th of November. Now, I said, if I am to be reported at the State Department, then I will get my orders, and I will get them from the Secretary of the Navy. But still I did not really believe that Mr. Washburn would report me. Mr. Washburn wanted to discuss the question. I said no; I have given all the reasons I possibly can, and I would rather it would stand in that way. I had never received one official line from Mr. Kirk, or Mr. Washburn. I stood in this matter simply as being appealed to by Mr. Washburn.

By Mr. WASHBURN:

Q. Would you have acted differently if I had written you officially?—A. I cannot tell what I would have done. I shall not answer in that kind of way. I would probably have done this: I would immediately on the receipt of that letter have sent it to the United States, with my reasons, and I would have answered it immediately.

By Mr. ORTH:

Q. Did you intimate to Mr. Washburn at any time that he should address you officially?—A. No sir, I never did.

Q. Did you ever make any objections to Mr. Washburn that his request to you was not of an official character?—A. No sir, never in any way.

Q. You did not state that you declined acting because he did not address you officially?—A. No, sir. If it had come up officially I would have sent it to the United States with my reasons. I did not write at the time; but Mr. Kirk afterwards came on board of my ship and told me, in the course of a conversation, that it would be well for me to look out for myself; and I thought that probably it would be better at once to let the department see how the matter stood, and whether I was acting exactly as the department desired. So I gave my reasons. And then for the first time commenced the official correspondence.

(The witness read his letter to the Secretary of the Navy, dated January 23, 1866, as published in Ex. Doc. 79, 3d sess. 40th Cong., No. 33; and Mr. Welles's reply thereto dated March 12, 1866, published in the same document.)

I have referred here to the views that Mr. Washburn gave me. I will now state that Mr. Washburn urged upon me that if he could get to Paraguay, he thought he could make peace with these people. I knew those people pretty well, and did not agree with him. He spoke of Lopez in strong language, pretty much as he felt about him; that he was a bad man and he thought he could not sustain himself there very long; that he believed that if he (Washburn) were there he could help matters; that the Brazilians wanted him out of that country, and that he would like to have a vessel there among other things in case that Lopez wanted to go, as it would be a convenience for him to go. Mr. Washburn desired that I should see Mr. Saguier, a Paraguayan who had left Paraguay and was living at Buenos Ayres. I did not care to see him. However, Mr. Washburn urged it upon me, stating he would tell me a good deal about Paraguay and Lopez, and that he would convince me that Lopez would like to come away. I told Mr. Washburn, however, at that time that I had not the slightest idea of putting myself in any position of getting Lopez aboard of a man-of-war in my squadron, if I could possibly help it; that I was out there for American interests; that I was a neutral, and I was bound to continue so. The very first thing that came up in my mind then was, that this business at Paraguay would be more troublesome than I had any idea of. It made me very cautious how I was going to act in these matters. I went to see Mr. Saguier, as I thought it likely I might hear something of the country; but I did not see him until he called at my house—at my headquarters. I do not recollect whether he came with Mr. Washburn or not. I found him a gentleman of intelligence and education, speaking both Spanish and French. We spoke in Spanish I think, and conversed on this subject. I found that Mr. Saguier had come to me to persuade me to do this thing of going up the river, and to be convenient that Lopez could come away in the vessel. Among other things I remember his using the expression that Lopez was a coward. I said he had not shown it; that he stood up to his work amazingly well. But still he urged this thing and it became rather offensive to me. I saw I was to be argued into doing this thing, and finally in his warm and excited manner, forgetting himself, he addressed me as "commodore." I had been waiting for an opportunity to let him see that he was mistaken in acting in that particular way; and I said to him, "One moment; you have addressed me outside of my rank which has been conferred upon me by the government; I desire you to know that I am an admiral, and one who is not to be influenced." I did it to check him. His conversation was not an agreeable one towards the close; and I soon after left him. Mr. Washburn said to me, "What kind of an impression did he make upon you?" and I said he did not make an agreeable impression upon me at all. I left him with the impression that this was a matter I had nothing to do with, and that I must not commit myself in those matters. I did not allude to this conversation in my letters; I did not think it proper to do so. I did not

think it was the proper view to take of it, and it made me cautious. Still I got this letter from the Secretary of the Navy, and I felt that thus far I had done right. When this letter was received I was at Montevideo. I had gone to work immediately after leaving Buenos Ayres, to fit up the *Wasp* with something like a cabin on deck, which would give a great deal more space, and I had bunkers made holding from 40 to 50 tons of coal. She was very awkward for man-of-war purposes, and very inconvenient for carrying passengers until I fitted her up for that purpose. In the mean time I went up the Uruguay river, and on my return to Buenos Ayres I was invited by Mr. Octaviano, the special envoy representing the Emperor of Brazil in the conferences of the allied powers, to an interview. I wrote to the government from Montevideo, May 18, 1866, informing it of the result of that interview.

Perhaps I should say, in explanation of this letter, that I had a difference of opinion with Mr. Kirk about my visiting General Urquiza. Mr. Kirk did not want me to go and visit Urquiza, who was an influential man, but not holding a position in the government. I thought that Urquiza would be the great man of the country, and that there was no reason why I should not go and see a man of his immense influence. But Mr. Kirk seemed to think it would not be pleasant and agreeable to the government, and wrote me a note to that effect. I differed from him entirely, and I wrote an answer, in which I stated that I guessed he (Kirk) would find that I scarcely needed a dry nurse. I did not go because of this little mishap. But I afterwards did go and have an interview with him, as I felt that it was my duty to pay my respects to him.

In my interview with Mr. Octaviano, at Buenos Ayres, Captain Marvin and Captain Kirkland were both present, and I heard exactly what Admiral Tamandaré had said. Mr. Octaviano received me without formality, and came up to me and immediately began to speak about what Admiral Tamandaré had said: that Admiral Tamandaré had said that I had told him that if *one* passed the military lines, anybody could go. Those were his words as I understood him. My remark was, "If Admiral Tamandaré has said that, he has made a great error;" and Mr. Octaviano remarked, "Admiral Tamandaré is not in the habit of making errors." I said, "I hope I have not come here, at your invitation, to discuss the habits of Admiral Tamandaré; I do not know what they are; but if he has said that, he has made a very grave mistake. I said to Admiral Tamandaré that when that blockade is established at Tres Bocas, I will acknowledge it. I did acknowledge the blockade there; but, sir, if you allow one vessel to pass that blockade, it is gone." "Why," said he, "that is what I said." "No, sir," I replied, "you said if one *person* was to pass. I had nothing to do with the military lines; my action was entirely in reference to Admiral Tamandaré. I told him I would acknowledge that blockade, that I could not resist it; and I told him more, that whatever part he conquered, I would acknowledge the blockade there, but that he must conquer it." My interview was not an agreeable one at first. I was annoyed. He immediately apologized and then went on to say something about Corrientes. I suggested to him that, while they might have the right to prevent their passing through the military lines, I considered not granting it was neither amiable nor friendly, and might lead to results. But I did not claim the right to have Mr. Washburn go through. I did not mention his name in connection with the subject of military lines; that was a subject for Mr. Kirk to attend to. I was cautious not to touch that point. I then left. Mr. Washburn was at Corrientes, and I would have been pleased to hear from him, but, unfortunately, our friendly relations had ceased. As I was placed in the position of having done wrong, I wanted my authority from the head. Neither Mr. Washburn nor Mr. Kirk wrote to me; but I knew when the proper time came the government would send orders about the matter. I then went to Rio, where I received the first letter from the Secretary of the Navy in connection with anything like an order; that letter is dated April 26, 1866.

Q. Did you understand from that letter that in the event of their not permitting Mr. Washburn to return to Asuncion, you should furnish him with a vessel and escort, and force the blockade?—A. Yes, sir. That is a war measure, and I could have acted without any mistake.

By the CHAIRMAN:

Q. You stated in your letter of July 6, 1866, detailing the interview you had with the officers of the Argentine Republic: "The conversations were entirely unofficial, although very plain on my part; and it is distinctly understood by them that unless our minister is permitted to proceed at once to his destination, I will place him there without further delay." Why didn't you proceed to place him at his destination without further delay prior to July 6, 1866, when you wrote this letter?—A. Because I had no orders to do it.

Q. Did you, in this interview, inform him that you had received those orders?—A. I did not. What I did say is contained in the same letter, in these words: "That our right was so perfect to send a minister to Paraguay, with which country we were on terms of friendship, that doubtless the government of the United States would claim an explanation for the delay of Mr. Washburn, and that I had already received instruc-

tions how to act." I said perhaps more than I had a right to say to the minister; but I told him this unofficially: "If anything has escaped me, I hope you will consider it due to a foreign language." I was not a diplomatic agent, and could not act as one.

By Mr. WILLARD:

Q. You understood that the Brazilian government had sent forward instructions?—

A. They told me they were very anxious to. They found now that I was going to move very fast in this matter, for if the demands were made, and I heard that they had been refused again, I should have had nothing more to do about it; and I was extremely anxious that they would send their instructions.

Mr. Washburn mentioned in the course of his evidence that I had gone north on one occasion, instead of going south. Mr. Webb, in his correspondence, states so too. I did go north, but I had two objects in view; one was, to give them time to send these instructions down there, that there might be no complication; and the other was to proceed to Bahia, by order of the government, fire a salute on account of the Florida affair, and endeavor to renew a good state of feeling. As Mr. Washburn has seen fit to allude to this, I mention it to show the committee that my going north was specially official; and you will find, I think, when that conversation is seen, that the admiral said to me, "Now we have had this talk over and settled these things, don't go down south, don't do anything yet; give us all the chance you can."

By Mr. WASHBURN:

Q. When did you first learn that they had not sent these instructions?—A. I never heard they had not sent them.

Q. Didn't Captain Crosby tell you?—A. I never heard they didn't send them, nor were any instructions ever sent, to my knowledge, for a vessel to pass the blockading squadron, and I do not know that they have ever been given to this day. The military lines was the only question at issue. I never was asked to ask a passage through the blockading squadron. I was told to go.

Q. Didn't the blockade constitute a part of the military lines?—A. No, sir; my ships cannot pass through a military line.

By the CHAIRMAN:

Q. At what time did this blockade commence?—A. It was established at the time I arrived there, in January, 1866.

Q. How long did it continue?—A. It was broken by the allies after the gunboats went up above Humaita.

On the 8th of August, 1866, Mr. Washburn wrote to me inclosing a copy of the dispatch sent to him by the Secretary of State. In referring to this dispatch, Mr. Washburn says: "By the last mail from the United States, being then at Corrientes, I received a dispatch from the Secretary of State, in which he informs me that 'the President is *very much* surprised at the course of the allied commanders in detaining me, as it is a proceeding both discourteous and illegal.'" By referring to this dispatch, it will be seen that the words used are, "the President is surprised," and "is deemed not altogether courteous," instead of the words he uses.

Now, I want to state that with both these documents before me, and both of them official, what was I to do—to take the words of the minister, or the words of the Secretary? That letter was ordered to be sent to me, and I had to view the instructions of the Secretary of State precisely as I read them, that the President was surprised at the delay in allowing a passage through the military lines, and it was deemed "not altogether courteous." There was nothing "illegal" about it, and it comported precisely with my ideas. While that dispatch of the Secretary of State of April 16, 1866, was being written in the United States, (and which only reached me in the following June,) I was stating to Mr. Octaviano almost the exact words that the Secretary was using in regard to this affair: "Sir, my government may perhaps say to you that that is not an amiable or friendly act." But I did not say to him that it was "illegal," because I thought they had the right to do so if they thought proper. Still I am told by the minister that it was an illegal act, though the Secretary simply says that "it is deemed not altogether courteous." With that difference of opinion between the Secretary of State and Mr. Washburn I was compelled to write to him and give him my honest view of what Secretary Seward did say. And that drew from Mr. Washburn a letter in which I am told that I was imprudent, or something, because I took a different view from him, and that I was to put no construction on the dispatch. In my view I was compelled to put my construction upon it, and to act accordingly, or else why was a copy of the dispatch sent me—a very unusual measure?

By Mr. WILKINSON:

Q. Did you, or did you not, think that the government of the United States had no interests that required Mr. Washburn to go up there at all? Did you entertain that idea?—A. I knew that there was no American interest there at all, nor any mercantile interests, so far as the American merchants were concerned.

Q. Did that knowledge influence your action at all in this matter.—A. Very much in connection with the blockade; that was the point in my mind.

Q. Did you think, as a naval officer, it was your business to judge whether the United States government had interests there that made it necessary for Mr. Washburn to proceed there?—A. Yes; I knew there were no interests there.

Q. But the government having appointed Mr. Washburn minister to Paraguay, and he having reached your squadron on his way there, did you regard it as your province as a naval officer to say whether it was necessary that he should go up there, or not, as an accredited minister of the United States?—A. No, sir.

Q. Would you not think it was Mr. Washburn's province to determine that question, whether it was necessary for him to go up, or not, rather than the admiral's?—A. I think so; yes, sir.

Q. Yet I see by the testimony of Governor Kirk, that you gave as a reason for your course that you did not think it was necessary that the United States should have any minister up there.—A. I had the view that it was my business to judge about taking him, not about his going there. I had nothing to do with his going there.

Q. If you had, in your official capacity, thought it was necessary for the interests of the United States that he should be taken up there, would you have regarded it as your duty to have detailed a vessel for the purpose of taking him up there, and even to have broken the blockade, if necessary, that the government should have a minister there; would you have detailed a vessel to help him through?—A. I would not have broken a blockade because there might be particular interests there, without I knew what those interests were.

Q. But if you had regarded it for the interests of the United States?—A. I could not have broken the blockade under those circumstances. It involved a great many questions. I should have been very careful about taking action unless my mind was very clear that the interests were equal to bringing on a war.

Q. You think, then, that it becomes your province to determine the question of the propriety of sending the minister there?—A. I would have to determine it. I could not receive an order from the minister. I must be impressed, and my self-conviction must be positive on the subject that I am going to do a thing that is right, as my commission and my honor is at stake, unless I have positive orders. The minister, in making me the suggestion as to what I ought to do, did not take the responsibility of my action away from me. His view might help me in coming to a decision about the matter, but he had no right to control me. But I wish to state, and have it fully understood, that whatever I did I was governed by a simple sense of my convictions at that time, and influenced by no other feelings whatever.

WASHINGTON, D. C., April 15, 1869.

Examination of Rear-Admiral S. W. GODON continued.

By Mr. ORTH:

Question. Will you please proceed with your narrative from where you left off on yesterday?—Answer. I would like to refer to a letter of General Webb, dated September 16, 1866. It is as follows:

“LEGATION OF THE UNITED STATES,
“*Petropolis, September 16, 1866.*

“SIR: In reply to your official note of yesterday, received at 7 p. m. this evening, I have the pleasure to communicate, for your information, that on the 22d of August I advised Mr. Washburn officially that all obstructions on the part of the allied fleet to his repairing to his post of duty had been removed.

“I have the honor to be, very respectfully, your obedient servant,

“J. WATSON WEBB.

“Acting Rear-Admiral S. W. GODON,

“*Commanding U. S. South American Squadron.*”

I then wrote to the Secretary of the Navy, under date of October 8, 1866, to inform him that I had sent orders to Captain Crosby to convey Mr. Washburn, minister to Paraguay, to his post at Asuncion, assuming that by the time he would reach Buenos Ayres his instructions would have been complied with, and that he would have received the permission which had already been sent from Brazil, and that there would be no difficulty about his going up the river, so far as the allies were concerned. At the same time I stated in my letter that Captain Crosby was not to receive on board any Paraguayans, either Lopez or any other. And I gave my reason to the Secretary of the Navy for giving this specific order to Captain Crosby. The following is an extract from that letter:

“I have given, as the department will perceive, distinct orders to Commander Crosby not to afford a passage to General Lopez, or to any Paraguayans. I should not have thought it necessary to do so under ordinary circumstances, as the usual hard common

sense of a navy officer would have pointed out to him the impropriety of such a course, but Mr. Washburn so earnestly urged upon me the advantage it would be to General Lopez to have one of our men-of-war convenient to bring him away from Paraguay, if he so desired, and seemed to think that it was such a good reason for giving him (Mr. W.) a vessel of war to go up to Asuncion, that I deemed it proper to make the order clear and unmistakable on that point."

That referred to my first orders to Commander Crosby. Those orders were modified afterwards, in relation to torpedoes, and a rise in the river.

By Mr. WASHBURN:

Q. What is the date of the letter modifying those instructions to Captain Crosby?—

A. It was dated October 21, and is as follows:

"UNITED STATES SOUTH ATLANTIC SQUADRON,
"FLAG-SHIP BROOKLYN, (2d rate,)
"Rio de Janeiro, October 21, 1866.

"SIR: In my instructions to you to proceed to Asuncion, on application in writing from Mr. Washburn, I did not allude to any difficulties you might meet with for want of water, nor from torpedoes or other obstructions in the river placed by Paraguayans.

"You will not proceed at all until you know the water is high enough to allow you to go up without inconvenience.

"If torpedoes or other difficulties offer, you will then land the minister at Curupaity by boats or at some convenient landing within the Paraguayan lines to which the allies will have no objection, or you may be obliged to avail yourself of the means which will be placed at your disposal to pass the minister through the allied lines to those of General Lopez.

"Respectfully,

"S. W. GODON,
"Rear-Admiral, Commanding South Atlantic Squadron.

"Commander PEIRCE CROSBY, U. S. N.,
"Commanding United States Steamer Shamokin."

I also sent that letter to the Secretary of the Navy. My object in writing that modification was simply because my former orders to him were peremptory, and I wished to allow him some discretion, as he would be responsible to a certain extent. I gave the order to Captain Crosby as far back as October 5, to go up the river when he was applied to by Mr. Washburn. I had written to Mr. Washburn that after he had made his appeal, or rather had sent the letter which the Secretary of State required him to send, and had received his answer to it, he would apply to Captain Crosby, who would carry him up the river. In the meantime, General Asboth had gone to Buenos Ayres, and was under instructions to demand from the officials there the permission for Mr. Washburn to pass, which permission, it seems, had never been asked for by Mr. Kirk, nor had Mr. Washburn applied to Mr. Kirk for it, although Mr. Kirk was the representative at the place where the authorities were who had the power to grant it. Still, I felt that I would not revoke my order to Captain Crosby, although Mr. Washburn had written to me that he would not make the demand upon the President. His letter is dated October 1. My order to Captain Crosby was sent October 5, under the conviction that Mr. Washburn would apply for this permission, as he was directed to do by the Secretary of State, a copy of which instructions from the Secretary of State was in my possession when I received his letter of October 1.

Q. Had you revoked the order to Captain Crosby, would it have reached him in time?—A. It seems not; but I am stating facts, I do not care to state conjectures. I would rather not be interrupted unless it is in regard to facts. I do not know whether it would have reached him or not; I have not thought of this matter at all; it might or might not have reached him; it has no bearing upon my mind at all. I did not revoke the order from the fact that General Webb had written to me that permission had been granted from Brazil, which was the ruling power, and General Asboth had gone to Buenos Ayres to get permission granted or the hinderance removed; and I knew the permission would be given, or believed it would—I cannot say that I knew it. I believed permission would have come from the proper source, so that whether Mr. Washburn obeyed his portion of the instructions or not, I felt relieved in doing what I did; so the order continued in force. My letter to Mr. Washburn mentioned that I was officially informed by General Webb, our minister to Brazil, that permission had been granted for him to pass through the military lines of the allies into Paraguay; and that General Webb had so informed Mr. Washburn. I also wrote him that I had instructed Captain Crosby, of the Shamokin, to receive him and his family, on his requesting it in writing, and to convey him to his post. When I gave that order I knew I was going beyond my instructions. My instructions merely directed me to take Mr. Washburn up the river in case of a renewed refusal.

By Mr. SWANN:

Q. You acted upon the basis of General Webb's letter to you?—A. I acted upon the fact that General Webb had made this statement to me. I understood it was a settled fact so far as the military lines were concerned. My going beyond my instructions in taking Mr. Washburn up beyond the blockade as high as he could go was an act of my own for which I held myself responsible to the government. I thought it possible that the slightest difficulty occurring there would place me in a very uncomfortable position. But that contingency never arose; Mr. Washburn never was refused again. The reason I did so was this: Mr. Washburn had been there a very long time. I knew he had written to this government and complained of his detention. The letter of the Secretary of the Navy, giving me instructions under the circumstances, stated that the Secretary of State desired that Mr. Washburn should proceed to his post. I thought that, under all the circumstances, the difficulties and annoyances that he had had, if he undertook to pass the military lines there might be something done which might incommode him and his wife. Therefore I thought I would not expose him to that, but would take him up the river in a gunboat. That was the sole reason that governed me in going beyond my instructions. I supposed I could make this clear to my government, particularly as I had told the minister that the allies never did grant the permission to pass the blockade. Still I believed that the Brazilians were very friendly disposed, and I did not think they had the slightest feeling in the matter against Mr. Washburn. I have no doubt that they were anxious that he should not go up, as his proceeding to his post would give a moral support to the Paraguayans. But I said to the Brazilian minister of foreign affairs: "This thing has been prolonged so that I shall send a vessel up with Mr. Washburn." He said it might be a very serious matter, and insisted upon it that it would be a subject that might turn up very much against him. I said: "Well, I cannot help that; I think that the time must come when I shall do this." My interview at that time with the minister of foreign affairs was official and is on record at the State Department. Some little discussion took place in which the minister seemed to think I had perhaps used some stronger language than I ought to have done. He afterwards said to the French minister, and his statement was repeated to me by the French admiral, that the reason he yielded to me in the slightest degree was that I held a knife to his throat; those were his words. I never considered I had gone anything like so far as that. My letter will show the extent of what I did; that it was a plain conversation. After that letter had been written I went up to Rio and called upon General Webb. I had not seen General Webb; all the communication I had had with him was the official note which I got while I was writing. When I told General Webb what had transpired he was very much surprised, and said: "Why, I have not only written that, but I have instructions from the Secretary of State to ask of this government permission for Mr. Washburn to go through the military lines, and if they refuse it I have instructions to demand my passports in from six to eight days." He also said that Mr. Washburn had orders to return home; that General Asboth or Mr. Kirk, whoever was then minister at Buenos Ayres, was also required to ask for his passports. I saw at once that I had gone beyond my instructions in every way; because these gentlemen were all to be recalled, diplomatic relations were to cease with these people unless from some act of the allies the obstructions were removed. The whole question resolved itself into this; the moment Mr. Seward found that I was going up through and break the blockade if Mr. Washburn did not receive permission to go up, orders were immediately sent out, not to me, but to these gentlemen, to demand their passports and return home if permission was again refused.

By Mr. WASHBURN:

Q. Will you state the difference of time between those two dispatches?—A. I do not know anything about that; I was not in Rio when the dispatch was received.

Q. Were they not within 30 days of each other?—A. I have not the slightest idea; I do not know that I have ever seen them myself; I can refer only to that portion which is contained in Mr. Washburn's own letter.

By Mr. BANKS:

Q. What was the date of that letter and on what page of this document is it?—A. It is dated October 1, and commences page 18 of the document.

Mr. WASHBURN. The first is dated April 21; the next, June 27, about two months apart.

Admiral GODON. That is not the one to which I refer. His instructions also were to return to the United States if the hinderance alluded to had not been removed by some proceeding on the part of the allied powers. I found that if they had actually refused to pass him through the lines, and I had sent Mr. Washburn up in a vessel, I would not only have disobeyed my orders, but he would be disobeying his orders, and instead of returning home would go up to Paraguay. When this letter of Mr. Washburn was received by me the vessel had gone and the letter did not change my views in the slightest degree, although I saw that there was something like breakers ahead if things

went wrong. But I hoped for the best as I had acted for the best. I did not answer that letter, I simply acknowledged its receipt. General Webb was on board the flag-ship when that letter came. He was my guest; he had remained with me six or seven days; he came down just about the time the mail would arrive. I read this letter to him. There were some parts of it which made me very indignant; that part which stated that nothing had been done by the allies toward removing the obstructions and allowing Mr. Washburn to go up, made me very angry, because Mr. Webb had written officially to me that the Brazilian government had given orders for him to pass. General Webb felt that he had a right to be very much aggrieved; the Brazilian government was one of the allies and the important one. The statement was made again and again in the letter of Mr. Washburn that nothing had been done.

By Mr. WASHBURN:

Q. Had anything been done?—A. Mr. Webb stated to me officially that there had been; and I had sent a vessel up because I believed that something had been done. Nothing had passed between me and the government to that effect; but the chargé d'affaires had told me the same thing. I knew from conversations I had had with people there that they were willing to let Mr. Washburn go through the lines; and Mr. Webb had so informed me officially. If he had stated what was not true it was not my business. It was an official letter and I would have acted on it under any circumstances until it was shown to me that it was incorrect. You can judge better how to take letters from the general; but I had to take it for its face when it was marked official.

By Mr. ORTH:

Q. What was the next step?—A. As I state, Mr. Webb was on my flag-ship at the time I received this letter of Mr. Washburn which I read to him. General Webb wrote in my cabin a letter to Mr. Washburn. It was a very long letter. It was a very offensive letter. I mention it especially because Mr. Washburn has stated that I did not answer his letter, but allowed General Webb to answer it. God help the mark, at my time of life, with my education and my experience, and I will say with my vanity, that I should have got General Webb to answer a letter which I had received.

By Mr. WASHBURN:

Q. You say General Webb wrote the letter in your cabin?—A. It was written in my cabin, in my after-cabin, greatly to my annoyance. I did not care so much about the letter, but I did not want it written there. I earnestly asked General Webb not to send that letter. I told him that letter was addressed to me; it was my affair; I would write to the Navy Department; that I did not want to discuss it, but that I would attend to my matters. I am supposed to be considerably vain; so I am told. No man has ever written a letter for me, or at least not for a very long time. I am not in the habit of getting people to write letters for me. It is my habit to take that kind of responsibility upon myself, for I know what I have to say. I do not allow my secretary to write for me, except upon indifferent matters. There is no letter of the slightest consequence that is not written by myself. I should be very sorry to have it thought that I desired General Webb to write a letter for me, and especially to sign it for me. Even if I had got an amanuensis to do the writing of the letter I should have signed it myself. I did not want him to write the letter and did not desire him to do it. The letter is his, not mine. Anybody who will read the correspondence here, who will read my letters, and his, will see that there is nothing in that letter of my character.

By Mr. BANKS:

Q. That letter is one we have called for?—A. It is; these are matters of investigation.

By Mr. ORTH:

Q. Your testimony is that you did not authorize General Webb to write that letter?—A. Certainly I did not, by any means. I regretted the letter; I did not think it was a proper one, and I told him so. He told me the letter had to go. He said, "I write this letter because I am going to write to the Secretary of State, and this letter goes with it; we are obliged to send all our correspondence to the State Department."

Q. Will you please state such other facts as you desire to have stated?—A. There is one point to which I wish to call the attention of the committee, especially as Captain Crosby seems to have argued it all the way through in his testimony. After Captain Crosby had got through the blockade quietly, a certain distance above the allies, and Mr. Washburn had landed, and the proper ceremonies had been performed, Mr. Washburn went up to Asuncion, or Humaita, and an officer was sent to accompany him.

Q. That was Lieutenant Pendleton, was it not?—A. Yes, sir; he accompanied Mr. Washburn to Humaita. Captain Crosby then dropped down below the blockade, and anchored in the neighborhood of the Brazilian lines, leaving this officer in Paraguay. Now there had been a contention about passing the military lines. Admiral Tamandaré had been disobliged by our vessel going up through the blockade, to say the least of it; he had protested against it. Captain Crosby drops down with his vessel, leaving

an officer inside the Paraguayan lines. Here was a chance, when that officer was to return, for the same difficulty to occur about going through the blockade. When this matter came up, and I found that with all my care, trusting to the intelligence of the officer, he had placed matters just where it was possible some serious trouble might take place, that he had, without the knowledge of Admiral Tamandaré, left an officer in the Paraguayan lines. I saw at once that Captain Crosby had committed a grave error; that just exactly what I wanted to avoid had unfortunately taken place. I had not let Mr. Washburn go through the military lines lest some trouble might occur with regard to him, but had taken upon myself to send a vessel through the blockade in order to avoid annoyance. This officer who had been left was stopped when he undertook to return, just as I anticipated. Finally, Admiral Tamandaré very courteously did what was to be done; protested against this being done without his permission. I feared at first that there would be some difficulty.

Q. Still, Lieutenant Pendleton came back?—A. Yes, sir; but I allude to this to show that Captain Crosby did not do what I thought he should have done; it did not satisfy me, and I told him so. He had placed me in a situation that might have annoyed me very much. But after awhile, when I saw there was no trouble, that nothing had come from it, I read these papers more carefully; I had merely glanced over them before. And rather than complain of Captain Crosby; rather than show to the department that he had not acted with the intelligence which I had anticipated, I waived the entire subject, except to mention that Admiral Tamandaré had protested.

Q. Do you know for what purpose Lieutenant Pendleton was left behind?—A. I do not, except that he had gone up with Mr. Washburn in order to bring down some dispatches from him.

Q. Your instructions to Captain Crosby were to take Mr. Washburn up there, and then to return without unnecessary delay?—A. Certainly.

Q. Were you not informed that the object of leaving Lieutenant Pendleton was to enable Captain Crosby to return without unnecessary delay, and to enable the Lieutenant to bring down dispatches from Mr. Washburn?—A. I understand all that. Captain Crosby went beyond the lines, and instead of staying there, where he was out of the way of harm, went four, or five, or ten miles above the blockading squadron.

By Mr. WASHBURN:

Q. Do you assert that he was out of the way of harm; that he was not right between the lines, and exposed to fire from both sides?—A. I so state the fact. He could have gone higher up if necessary.

Q. He was told that the river was full of torpedoes higher up?—A. He could have gone a little higher up, out of the way of the Brazilians, instead of returning and leaving an officer there. It was not that he had left an officer with Mr. Washburn if he had staid there. It was that he had left the officer without informing Admiral Tamandaré that he had left him, and that the officer was to return through the lines, for which permission had to be obtained.

Q. Did he not announce that to Admiral Tamandaré immediately on his return?—A. I do not know anything about that.

Mr. WASHBURN. Well, he does.

Admiral GODON. You are stating the evidence. Let us see if he does. Here is Admiral Tamandaré's letter on the subject:

"And if I did protest in the name of the government against the going up of the Shamokin, disregarding the friendly means that I proposed, it was foreseeing the consequence of this act.

"In these consequences, notwithstanding I could not foresee that an officer of the Shamokin (should or) might remain in Paraguayan territory without right for so doing nor permission equal to the one granted to Mr. Washburn and his family, the which constitutes an offense to the right which my nation and their allies have, of impeding the passage of any neutral agent to the enemy's territory, and anew (*de novo*) it compels me to protest against those who ordered that act, as I protest solemnly, and in this manner I reply to your above-mentioned note."

By Mr. ORTH:

Q. Do you doubt the complete right of the United States to have taken her minister up through that blockade; and having done so, do you doubt their right to permit one of their officers to remain in Paraguay, a nation with which we were on friendly terms?—A. I have stated in one of my letters that we had a perfect right to take our minister into Paraguay.

Q. And a perfect right to take him up through the blockade?—A. According to our naval ideas, I doubt very much the right to take a minister through a blockade when resisted.

Q. Still you had positive instructions from your government to do it?—A. I had, provided they did not grant permission.

Q. When those instructions reached you the passage had already been refused to Mr. Washburn, and the contingency alluded to by the State Department had arisen?—A. My orders were to take him up provided he had a renewed denial.

By Mr. WASHBURN:

Q. Where do you find that word "renewed" in the instructions?—A. We will see.

By Mr. ORTH:

Q. You seem to place some stress upon the protest of Admiral Tamandaré?—A. I mention it merely because Captain Crosby seemed to think that I had not approved his conduct; that I had not said at once that he had done very well. I thought he had not done very well; that was my opinion, and it is so still.

Q. Do you admit the perfect right of the United States to take their minister up through the blockade, and having gone through, to permit one or a dozen of their officers to remain there without the consent of their allies?—A. Then they could only come back the same way they went.

Q. If it was necessary for the officer to come back he could run the blockade?—A. Yes, sir; and if that had been done there would not have been any complaint.

Q. And then, if war had ensued, it was an act of our government and not of yours particularly?—A. We must construe our instructions in such a way as not to have war result, if we can do so by the exercise of a little intelligence.

Q. Were you not informed by Captain Crosby that he permitted Lieutenant Pendleton to remain there for the purpose of becoming bearer of dispatches from Mr. Washburn?—A. That was so.

Q. You did not doubt the complete right of our minister to send dispatches?—A. I did not.

Q. But you attach importance to the protest of Admiral Tamandaré?—A. I attach importance to Captain Crosby having done that which led to the protest.

Q. It was a legal right for him to do so?—A. I do not think it was a legal right for him to return from that place and leave an officer behind. I consider it a great indiscretion—I consider it so now—so long as he could have held the place there until Mr. Washburn could have written his dispatches.

Mr. WASHBURN. He could not have held it two hours.

Admiral GODON. I do not know anything about that.

Mr. WASHBURN. I do; I know.

Admiral GODON. As this is my evidence, I would like to have my own statement recorded. Captain Crosby held his place there for a time; I think he could have held it a little longer. Whether I was wrong as to the law or not, a thing had been done involving another protest, whether the protest was good or not. I was not satisfied; I am not now. But the matter did not result in anything; there were no consequences except this protest. I saw it was an amiable sort of thing; it was kindly done; it was evidently not a fierce affair; it was only a little grievance more. I was going beyond my orders.

By Mr. ORTH:

Q. In what way?—A. I was sending Mr. Washburn up through the blockade; positively beyond my orders. The contingency had not arrived when I was to send him up.

Q. You do not then regard the first refusal of the allies to permit him to go as giving you that right?—A. I could not.

Q. You had been informed of that refusal by Mr. Washburn; you knew he had been refused?—A. I had nothing but my own instructions to go upon.

Q. Were you not informed by Mr. Washburn that he had been refused permission to go up?—A. Yes, sir; but my orders were—

Q. You had that information from Mr. Washburn, had you not?—A. Yes, sir.

Mr. BANKS. The admiral seems to act upon this idea that the refusal was to be renewed before he acted.

Mr. ORTH. But instructions were sent from the Navy and State Departments here long before they were informed of any refusal. And when they reached Mr. Washburn the refusal had already occurred.

Mr. WILLARD. I understand the instructions were sent after the State Department had been informed of the refusal. The letter was dated April 29. That was in answer to the letter of Mr. Washburn informing the State Department that he could not go up.

The WITNESS. I will read from the letter of Secretary Welles of April 26, as follows:

"The hindering and delaying of Mr. Washburn on his return to Asuncion, of which you are doubtless fully advised, is considered an erroneous and unfriendly proceeding on the part of the allies at war with Paraguay; explanations from them are regarded as due to the United States, and they have accordingly been informed that if in future they should refuse to Mr. Washburn the facilities necessary for the promotion of his journey, an occasion will have occurred in which the dignity of his government must be consulted, so far as to furnish the minister the conveyance and convoy necessary, though possibly, at some cost and inconvenience. I am assured by the Secretary of State that you are in no danger of being misapprehended by him."

I had such orders that I was required to really know what I was about. I am distinctly informed in this letter that the delay is inconvenient, but that the President does not desire to consider it an unfriendly proceeding. I knew nothing of what Mr.

Washburn had said to the government of the United States, he never wrote one line to me. But he tells me that he had been refused a number of times. I knew that from Mr. Welles's instructions to me. But now Mr. Washburn is told exactly what to do, not to write a long letter, but simply and definitely what to do. And minute instructions are given to me. I read them, and as they were very plain and simple, I understood them perfectly. I look at the whole business this way, here are minute instructions. I do not know what Mr. Washburn has written to the State Department. His letters might have been diffuse and long. But here he was told to go and say so much, and that if they then refused we will break the blockade. Now I want no instructions more clear than that, and I will venture my reputation acting upon such instructions, because they are clear and safe. I am sorry to say that they are not such as are generally given to naval officers. We are generally left in great doubt. But here the instructions were definite and clear. I never any more dreamed that I would have to explain away this thing than I dreamed of anything else. A navy man is brought up to obey orders in a certain way, with a certain something in the matter of taking responsibilities; some take none, others take a little more, so we go on.

By Mr. BANKS:

Q. In your letter to Mr. Welles you quote certain words "in a certain contingency," what do you quote from?—A. From Secretary Welles's letter. It is on that account when the thing was done and had reached a certain point, and I had gone beyond my instructions, for I had applied to my government for it, it is upon that account that I press this thing.

By Mr. ORTH:

Q. That is a responsibility incident to public service?—A. Certainly. But Captain Crosby did not act upon his orders. Now, while he attributed a little feeling to me, I thought he had not acted intelligently. And when I had occasion to send up there again, I took good care to send the Wasp, Captain Kirkland. I was very cautious how I trusted him; there was no trouble with Captain Kirkland.

Q. You had no trouble about the other?—A. I had that protest, which was always upon my mind, until I sent it home, and knew what they were going to say there; that was all. I did not know what Mr. Seward or Mr. Welles might say. Mr. Washburn says in his letter to me dated Buenos Ayres, August 8, 1866, as follows:

"By the last mail from the United States, being then at Corrientes, I received a dispatch from the Secretary of State, in which he informs me that the President is very much surprised at the course of the allied commanders in detaining me, as it is a proceeding both discourteous and illegal. He also sent me a copy of a letter which the Hon. Gideon Welles, Secretary of the Navy, had addressed to you, in which you are instructed to furnish me with a war vessel and such convoy as might be necessary to take me to Paraguay. Copies of these two letters are inclosed herewith.

"I had already anticipated the instructions of the Secretary of State, and had requested of the commander-in-chief of the allied armies a passage through their military lines for myself and family. But it has been persistently refused, and I therefore request you to provide me with a war vessel and the necessary convoy, in accordance with the instructions of the government."

Mr. WASHBURN. Allow me to read an extract from my letter of October 1, 1868:

"I will add that after President Mitre had closed his correspondence with me and referred all further discussion in regard to my detention to his government and its allies, I had, on my return to this city, an interview with Señor Elizalde, the minister for foreign affairs, and verbally represented to him the view taken in the matter by our government, and I afterwards sent him a copy of my protest to President Mitre, accompanied by a brief note, saying that such protest was reasserted and reiterated. Señor Elizalde, in acknowledging the receipt of the note and the protest, said he would submit them to the allies of his government, since when I have received nothing, official or otherwise, from any of the allied authorities, so that you will see I have literally complied with the instructions of the Secretary of State in the dispatch before mentioned, as far as it was possible for me to do so."

The WITNESS. That was after Mr. Washburn had received my letter in which I said, "You have not complied with your instructions." I sent the gunboat on the 5th; I had not then received his letter. On the 8th he writes to me and tells me just what he has been repeating, and goes on, "I will add that after President Mitre had closed his correspondence with me and referred all further discussion in regard to my detention to his government and its allies, I had, on my return to this city"—that was after receiving these very instructions.

By Mr. WASHBURN:

Q. What instructions?—A. To make another demand. And then he first tells me he had complied with his instructions.

Q. Was I instructed to inform you how I had complied with my instructions?—A. No. After all this matter was gone through with, I sent all these papers home, and

then I received a letter from the Secretary of the Navy, in which he informs me that I was all right. His letter is as follows:

"NAVY DEPARTMENT,
"Washington, December 26, 1866.

"SIR: The Secretary of State has submitted to me for my information a copy of a correspondence which has lately taken place between Mr. Washburn and the Department of State on the subject of our position with regard to the war between the allied powers and Paraguay.

"Your course in regard to Mr. Washburn meets the approbation of this department, and your instructions to Commander Crosby not to receive and transport on the Shamokin President Lopez or any other Paraguayan were correct.

"I inclose a copy of the dispatch dated the 15th instant from the Secretary of State to Mr. Washburn.

"Very respectfully,

"G. WELLES,
"Secretary of the Navy.

"Rear-Admiral S. W. GODON,
"Commanding South Atlantic Squadron, Rio de Janeiro."

The following is the dispatch from the Secretary of State to Mr. Washburn:

"No. 59.]

"DEPARTMENT OF STATE,
"Washington, D. C., December 15, 1866.

"SIR: Your dispatch of the 22d of October, No. 74, has been received. Your determination to proceed to Asuncion in the manner therein mentioned is approved. The President sanctions the direction which was given by Admiral Godon to Commander Crosby of the Shamokin, not to convey or take on board any Paraguayan on his voyage to or from Asuncion. This government owes it to the belligerents, as well as to its own dignity, to abstain from everything which could be, or could even appear to be, a departure from neutrality in the unhappy contest which is going on between Paraguay and her allied enemies. You will be expected to conform your proceedings rigidly to the principle of non-interference.

"I am, sir, your obedient servant,

"WILLIAM H. SEWARD.

"CHARLES A. WASHBURN, Esq., &c., &c., &c., Asuncion."

I had written to Mr. Welles and asked him to give me his opinion as to whether I had acted properly.

By Mr. BANKS:

Q. There is no question about the correctness of your instructions to Captain Crosby not to allow Paraguayan officers to go up or down. But the point is that you did not as early as you ought, and when you ought, make efforts to transport Mr. Washburn to his post. What is your reason for that? As I understand it your reason was that your orders directed you to act upon a certain contingency which had not occurred?—A. Yes, sir; that was my reason, and here is the letter which closed the correspondence that I had with the department on the whole subject:

"NAVY DEPARTMENT,
"Washington, February 1, 1867.

"SIR: Your No. 132, dated the 10th of December last, with its several inclosures, has been received.

"The department congratulates you on being finally relieved of the long, annoying trouble attending the passage of Mr. Washburn to his destination. Your proceedings, views, and course pursued, under circumstances trying in many respects, are approved throughout, and have been creditable to you and the service. Your dispatches have been submitted to the Secretary of State, to whom Mr. Washburn has frequently appealed, and that gentleman has sent to the department an approving and complimentary letter, a copy of which is herewith transmitted.

"Very respectfully,

"G. WELLES,
"Secretary of the Navy.

"Rear-Admiral GODON,
"Commanding South Atlantic Squadron, Rio Janeiro."

And this is the letter from Mr. Seward to Mr. Welles, a copy of which I received:

"DEPARTMENT OF STATE,
"Washington, January 28, 1867.

"SIR: I have the honor to acknowledge the receipt of your letter of the 25th instant, accompanied by dispatch No. 132, of the 10th of December last, from Rear-Admiral S.

W. Godon, commanding the South Atlantic squadron, upon the subject of the conveyance of Mr. Washburn, minister to Paraguay, in the United States steamer Shamokin.

"In compliance with your request for an expression of my views in regard to the course of Rear-Admiral Godon on the occasion referred to, I have the honor to state that, after a careful perusal of his dispatch and the accompanying papers, it seems to me that he executed the peculiarly delicate duty confided to him with firmness, prudence, and courtesy.

"The admiral's despatch is herewith returned.

"I have the honor to be, sir, your obedient servant,

"WILLIAM H. SEWARD.

"Hon. GIDEON WELLES,

"*Secretary of the Navy.*

And now I desire to say a word with reference to Minister Asboth. I would refer to his letter dated February 7, 1867; it is as follows:

"LEGATION OF THE UNITED STATES,

"*Buenos Ayres, February 7, 1867.*

"SIR: In obedience to instructions received from our government, I have addressed an official note to Señor Dr. Don Rufino de Elizalde, the Argentine minister for foreign affairs, relative to the good offices offered by the United States government toward the termination of the war which is waging between Paraguay on the one side, and Brazil, with the Argentine Republic and Uruguay, on the other; and as the government of the United States has no diplomatic representative near the government of the Uruguay republic, I beg herewith to inclose a duplicate of the note above alluded to, with the request that you may be pleased to hand it to the Uruguay minister for foreign affairs, for the information and friendly consideration of the Uruguay republic—a republic whose interests are regarded by the people and government of the United States with the same sisterly affection as those of the Argentine confederation.

"I have the honor to be, sir, very respectfully, your obedient servant.

"A. ASBOTH.

"Rear-Admiral S. W. GODON, U. S. N.

"*Commanding South Atlantic Squadron.*"

As soon as I received this letter I took it for granted that it was all right. Mr. Asboth was accredited to the Argentine government. This was a communication to the minister of foreign affairs of the Uruguayan government. There was a little sensitiveness on the part of the Uruguayan government because we did not recognize General Flores as the President of Uruguay. I read the letter, and sent it to the government of Uruguay. I did not receive any answer to it, at which I felt a great deal annoyed, and was somewhat afraid that I had committed some indiscretion or other in sending it in that way. These offers of mediation to Brazil, Buenos Ayres, and Paraguay were sent through regularly accredited ministers. I let the government of Uruguay understand—I sent word, or made some remark on the subject so that the foreign minister should hear—that I didn't feel comfortable at this ignoring of my letter. Some time afterwards I was invited to the house of a gentleman, where I met the secretary of state of Uruguay, who expressed his regret at not having answered my communication. He stated that they were preparing a letter to Mr. Seward, from whom they had received direct these offers of mediation. I found that I had been doing that which Mr. Seward had done himself. Soon afterwards I received a letter from Mr. Asboth, asking me to send a vessel to Paraguay with dispatches from the government, in which vessel he was to go. I read my letter to the Navy Department on that subject:

"No. 159.

"SOUTH ATLANTIC SQUADRON,

"UNITED STATES FLAG-SHIP BROOKLYN, (2d rate,) "

"*Harbor of Montevideo, Uruguay, February 28, 1867.*

"SIR: On the 12th instant I received a letter from General Asboth, our minister to Buenos Ayres, inclosing a copy of the communication he had been directed by the Secretary of State to address to the Argentine government, and requesting me to forward it to Mr. Flangini, the minister for foreign affairs, for the information of this government.

"The matter seemed a delicate one, but presuming that General Asboth had some direct instructions on the subject from Mr. Seward, I sent the document as desired, with a letter from myself to Mr. Flangini.

"The receipt of that letter with its inclosure has not yet been officially acknowledged, but I have been informed by the minister for foreign affairs that he would reply to my communication, inclosing me a copy of his proposed answer to Mr. Seward, with whom he was in direct communication, on the same subject.

"I confess I felt some embarrassment upon making this discovery, but was glad to

learn that my letter inclosing the document from General Asboth had been received with pleasure.

"On the 18th I received another communication from General Asboth, asking for a man-of-war to be placed more or less at his disposal in order to send dispatches to Mr. Washburn, and to permit him (General A.) to proceed up the river for the purpose of holding a personal conference with Mr. Washburn.

"I at once went to Buenos Ayres and had an interview with General Asboth. He had received no instructions from our government on the subject, and I was not able to see any good result to be attained by placing him in Paraguay.

"I felt that whatever influence he might have with the Argentine government would be materially lessened by his making a visit at this time to the enemy's country.

"I have offered, however, to send a vessel up the river to the headquarters of the allied armies, with a bearer of dispatches from General Asboth to Mr. Washburn. These dispatches had not arrived from Washington at the time General Asboth received his instructions upon the subject of the proposed mediation of the United States.

"This arrangement will not be objectionable to the allies, but I believe Mr. Asboth's visit would be looked upon unfavorably.

"I am hourly expecting the mail from the United States, and should I receive nothing by it to alter my determination I will send the Wasp up the river to-morrow.

"During my stay of three days in Buenos Ayres, I found that the friendly offers made by our government to the belligerents for the settlement of this unfortunate war occupied the public mind quite as much as it does here, although it is difficult to know what direction things will take.

"Peace is greatly desired by the people, if not by the government authorities.

"I am, sir, very respectfully, your obedient servant,

"S. W. GODON,

"Rear-Admiral, Commanding South Atlantic Squadron.

"Hon. GIDEON WELLES,

"Secretary of the Navy, Washington, D. C."

I went up to Buenos Ayres immediately upon the receipt of General Asboth's letter and there I saw him. I told him that, while I would send a vessel with the dispatches I did not wish him to go up in it, that I did not wish to take him out of his jurisdiction into an enemy's country. We had a long conversation upon the subject; he did not seem to think it was wrong to go. To be sure, he was going beyond his jurisdiction, as he admitted, but still he did not think that was wrong.

By Mr. ORTH:

Q. He was going under direction of the resolution of Congress in regard to mediation?—A. He was going, as he said, to confer with Mr. Washburn.

Q. Under instructions based upon that resolution?—A. There were no instructions, he told me. Mr. Asboth had no instructions whatever from the government to go to Paraguay; he was very frank in saying so; that his instructions were to present the resolutions of Congress to the Argentine government. We differed, but we differed amicably, as far as that was concerned. I left with the distinct understanding that I would send a vessel as soon as I could. I asked him whom he would like to send as bearer of dispatches; he said he did not care. I told him I preferred that an officer should go rather than a civilian. He said that was a matter of indifference. I selected Captain Kirkland to go and take the dispatches. I then wrote to the department on the subject as follows:

"No. 163.]

"SOUTH ATLANTIC SQUADRON,

"UNITED STATES FLAG-SHIP BROOKLYN, (2d rate,)

"Harbor of Montevideo, March 9, 1867.

"SIR: In my letter No. 159, dated February 28, I informed the department that I had received a communication from General Asboth, (a copy of which, No. 1, is herewith inclosed,) asking for a vessel to be placed at his disposal in order to proceed up the river for the purpose of holding a personal conference with Mr. Washburn.

"I replied to the general's letter by stating that I would send the Wasp with an officer of the squadron as bearer of dispatches from the government, as well as any he might have to transmit, but I did not answer his communication in detail.

"On the 1st instant, I sent the above-named vessel, with such instructions to her commanding officer, Lieutenant Commander Kirkland, as will cover the object in view. A copy of these orders, No. 2, I herewith inclose.

"As I have not complied with the request of a public minister, and the general (as appears in his letter to me) has informed the State Department that he was about to make the application above referred to, I deem it proper to acquaint the department with my reasons for declining.

"The friendly offers of mediation made by the United States to the allies were placed by our government in the distinct form of propositions which were to be presented to

Brazil, the Argentine Republic, and Paraguay, by the various ministers accredited to those respective governments. They were also sent, it seems, in due form to the Republic of Uruguay by Mr. Seward himself, as we have no minister near this provisional government.

"I could see no object to be gained by sending our minister at the Argentine Republic to Paraguay, and I knew the suspicious character of these riparian state governments well enough to feel assured that such a mission would be injurious to any hope of good results from our offer of mediation.

"Another reason which influenced me in my action was the feeling I had that I might be called upon with equal propriety by our minister at Rio to take him to Buenos Ayres, or after General Asboth had finished his visit to Paraguay, the resident minister at Asuncion might find that he wanted to confer with General Webb, at Rio, and would also need a man-of-war for the purpose; neither of which requests could be graciously refused, if the precedent were established in the case of General Asboth.

"When General Asboth asked to be taken to Paraguay to confer with Mr. Washburn, he had not even received a reply to the propositions made by the United States to the Argentine government.

"Each state can, of course, decline or accept the offers of our government, and if Paraguay and the allies reject them, I cannot conceive that our minister can do more than simply transmit such rejection to Washington.

"The moment General Asboth should have left his official post, his rights and protection as minister would have ended, and he would have been liable to annoyances which, in his position, might have seemed like indignities. I therefore thought it far better to send an officer from the squadron to bear the dispatches, if the matter was reduced to that, simply.

"These are some of the reasons that induced me not to permit the Wasp to take General Asboth to Paraguay, as he desired.

"It is never pleasant to decline co-operation with our diplomatic agents, but I feel that my own judgment should govern me when it is at variance with that of any other public officer.

"My intercourse with General Asboth has always been very pleasant, and if we have disagreed on this point, the difference has in no way altered our friendly relations.

"I am, sir, very respectfully, your obedient servant,

"S. W. GODON,

"Rear-Admiral, Commanding South Atlantic Squadron.

"Hon. GIDEON WELLES,

"Secretary of the Navy, Washington, D. C."

By Mr. BANKS:

Q. Did you ever have any conversation with the Brazilian minister in regard to General Asboth visiting that government?—A. Before this?

Q. Yes, sir.—A. I mentioned in a previous letter that I had called upon the Brazilian minister. When I was talking with General Asboth on this subject I said to him that I had not seen the minister, and did not know anything about him. When I decided that under my ideas of propriety Mr. Asboth could not go, I said to him, "General, I wish you would see the Brazilian minister, and mention to him that this vessel is going up with dispatches; and I think they will render us all the assistance we can possibly want." General Asboth said he had never met the minister. I said, "He is here, I know, and I will go around and see him, and tell him of these dispatches being sent up; but you had better do it yourself, and also tell the Argentine government here that we are going, and they may send something up; at all events, it will be pleasant to have them understand it." He asked me to see the Brazilian minister. I intended to have gone anyhow. I saw the minister and told him that I was going to send up a vessel with dispatches. He said at once, "Why, admiral, we will send up your dispatches." I answered that we wanted them to go up at once, and that there had been some delays in these matters. He seemed rather to prefer that the vessel should not go up, and urged that I should not send it. I said that I had made up my mind to send the vessel.

Q. Had you any conversation with him about General Asboth's going up?—A. No, sir; I do not remember that that subject came up at all. The conversation which took place with General Asboth took place in his dining room; there were two or three persons present—his secretary, who was an Englishman, and some other persons; I had no conversation on the subject. He knew perfectly well before I went up there what I thought about it. It possibly may have been mentioned that he was going up, but I have no recollection of any conversation of that kind taking place. I wanted to make a pleasant impression upon his mind in regard to the vessel going up, in order that he might assist me in what I was going to do. General Mitre had been withdrawn from the command of the allies, and a Brazilian was in command there. He assured me that he would be very happy at all times to take any of these dispatches. I said I was very much obliged and should "avail myself of your offers in the future." The vessel was sent up. The following is a copy of the order I gave to Captain Kirkland:

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"UNITED STATES SOUTH ATLANTIC SQUADRON,
"Flag-ship Brooklyn, Harbor of Montevideo, March 1, 1867.

"SIR: Proceed with the Wasp under your command to Buenos Ayres.

"You will at once inform our minister, General Asboth, of your arrival there, and hand him the inclosed letter. General Asboth will place in your charge dispatches for the Hon. Charles A. Washburn, our resident minister at Asuncion, in Paraguay.

"Having received these dispatches, you will at once make the best of your way up the Parana to Tuyuti, the present headquarters of the allied armies. There, or at any other point named to you by the commander of the blockading squadron, you will communicate with the commanding general of the allies, acquainting him with your mission, and requesting him to give you, as bearer of dispatches from the government of the United States to its minister in Paraguay, a free passage and a proper escort through his lines.

"On reaching Mr. Washburn you will deliver to him the dispatches intrusted to you, and inform him that you will remain a reasonable time to receive any communication that he may have to send to our government or to General Asboth. It would be well to keep always in mind that the presence of a neutral vessel of war is never agreeable to belligerents in the midst of active war operations, and your good sense must be exercised in remaining beyond what might be considered a reasonable time to obtain any return communications.

"Impress upon the commander of the allied armies in the field that it is my wish and orders that you remain the shortest possible time at Tuyuti; and at all events, before leaving, obtain from him assurances that he will forward any dispatches to our minister at Buenos Ayres, brought from Mr. W. by flag of truce, as early as possible.

"I need hardly say to you how important it is that you should observe the most rigid neutrality in all your acts and movements. Receive no one on board going or returning.

"I wish you would call on Mr. Brito, the ambassador of the Emperor of Brazil, and offer your services to take up anything he has to send to General Caxias. This you had better do through General Asboth.

"Duties such as you are about to perform are always delicate, and require prudence. It is because I have this confidence in you that I send your vessel.

"I wish you a pleasant time, and hope to see you back soon.

"Respectfully,

"S. W. GODON,

"Rear-Admiral, Commanding South Atlantic Squadron.

"Lieut. Com. W. A. KIRKLAND, U. S. N.,

"Commanding United States Steamer Wasp."

Q. In General Asboth's letter dated March 23, he says that on the 2d of March he wrote to Minister Elizalde for a safe-conduct for Lieutenant Commander Kirkland to go up to Paraguay, and that on the 8th instant he received it. Then he says: "I at once informed Lieutenant Commander Kirkland of this result, but as it was my original intention, besides the exchange of official dispatches with Mr. Washburn, to have also a personal interview with him, and as neither of the three letters received from you contained any direct answer touching this my desire, I deemed it proper to request Commander Kirkland to inform me whether his special instructions from you were in any way conflicting with my intention to meet Mr. Washburn in person. Commander Kirkland in his reply, received on the 9th instant, stated that 'his instructions only require him to carry dispatches.'" Why did you not communicate with General Asboth by letter?—A. I had seen him and told him what I would do.

Q. He says your letters did not give him any direct answer.—A. I do not know anything about that. It seems that I did not answer him in a letter, but I distinctly informed him that he was not to go in the vessel.

Q. In a letter of Mr. Washburn to Mr. Seward, dated March 12, 1867, he writes as follows: "One of my first inquiries of the Marquis de Caxias was for news from the United States, as I had had nothing later than October. But I learned that nothing for me had been sent here since December. The marquis told me, however, that he had received a letter from Buenos Ayres saying that General Asboth had made an effort to communicate with me, and had proposed to come up the river on a man-of-war, but that they, (the authors of the letter,) after a *confidential* understanding with Admiral Godon, had so arranged it that he was not to come, but instead of him an ensign from the squadron was to be sent. I will make no comment on these *confidential* interviews of the admiral."—

A. That is not true; there was no confidential interview with him at all, it was a plain statement of facts, and everybody knew that Mr. Asboth was not going up, that I had told him so on my first interview with him. On landing I went straight to General Asboth and told him distinctly that I could not take him up, and gave him my reasons. And I will state here one of the reasons I gave him at the time; I had seen nobody about it. I went up, I think, the day after I received his letter and told him positively that he was not to go. We had a great deal of conversation upon the matter, and he seemed to think that he would like to go; he said he thought he could do a great

deal of good. I said, "General, I know about these things, I think, as well as you; I know of no conference that ever took place between accredited ministers to foreign countries on subjects which belonged to belligerents, except one, and that was the conference of Ostend, and we know perfectly well what was the result of that. Mr. Buchanan, Mr. Soulé, and Mr. Mason were found in the ranks of our enemies when the rebellion took place." That was the reply I made to him when he urged me to let him go up. Now conferences between ministers are subjects that I do not want to meddle with.

Q. Do you suppose if a minister in London wanted to consult with our minister in Paris, a naval officer would have the right to refuse any accommodation to them for that purpose? Is a naval officer responsible for that?—A. As I was to take the responsibility of sending Mr. Asboth out of his jurisdiction in a man-of-war, I considered that I had the right to judge something of the matter.

Q. In the letter of Mr. Washburn from which I have just read, reference is made to confidential interviews which you had with officers out there and a confidential understanding. You say there was no confidential understanding?—A. None at all. I saw General Asboth and settled that matter.

Q. It is not with General Asboth, but with other parties that this confidential understanding was supposed to have been had?—A. I saw General Asboth on that day and proposed to him to see Mr. Brito, the Brazilian minister. After settling with Mr. Asboth that he was not to go, I went to see Mr. Brito not only with the knowledge of General Asboth, but at his request. In that conversation I told him I was going to send the Wasp.

Q. That is not an answer to the question. On the 23d of March General Asboth says that he had had three letters from you and had received no answer to his request; then, that he asked Commander Kirkland, who replied that his instructions only required him to carry dispatches. On the 12th of March Mr. Washburn writes to Mr. Seward that the Marquis de Caxias had told him that you had had confidential interviews with him on that subject?—A. That is not true; it is false in every respect. I never had a confidential communication with Mr. Brito that I know of.

Q. Or any other person?—A. I mean anybody or any person.

Q. General Webb says in a letter to Mr. Seward dated August 24, 1866: "The conversation terminated in his placing in my hands the inclosed letter, marked B, which is as follows:

'Private.]

'RIO DE JANEIRO, August 21, 1866.

'MY DEAR GENERAL: I am sorry to see by your letter of yesterday that you are still unwell, and hope that you may soon recover.

'With regard to Mr. Washburn's case, I must inform you that interviews which took place between Admiral Godon, Mr. Lidgerwood, Mr. Saraiva, and myself, were expressly understood to be entirely private and confidential.'

A. I am referring to a year afterwards.

Q. General Asboth at the close of his letter of March 23, 1867, writes as follows: "In conclusion, I beg leave to inform you that my report to the State Department, relative to the above subject, was concluded as follows: 'Although I feel well assured that the admiral is actuated, as I am, by the same sincere desire to promote the best interests of our government, nevertheless I deem it proper, while submitting without further comment our conflicting views to your decision, to request at the same time that you may be pleased to define, for my future guidance, the reciprocal duties and obligations incumbent on ministers resident and admirals abroad under similar circumstances.'"—Did you understand that this extract which he sent to you was sent for the purpose of informing you that you did not understand your business?—A. I understood it exactly as I stated, that General Asboth had informed me first that he had written to the department and had sent me that extract, which was about the same as telling me that I did not know my business.

Q. Would you under any circumstances have made that reply to General Asboth that the information was sent to you for the purpose of informing you that in his opinion you did not know your business?—A. I did not make that reply.

Q. Would you have made it under any circumstances?—A. After the conversation had taken place in which I had said to him that I knew my own responsibilities and that he had his responsibilities, I considered his sending me that extract without sending me the whole letter was simply equivalent to letting me know that at all events he had no confidence whatever in my understanding my position there. He came out to the country on the Sunday after I told him he could not go and urged me again. He said, "Admiral, I will take all the responsibility." I said to him, "General, do you wish me to understand that your making this request implies some order, something that I must do?" "No," he said, he did not mean that. "Then," said I, "where is the relief from responsibility on my part? If you lay the matter before me and I am to judge of it, then you cannot relieve my responsibility in the matter. If there is anything in the request that conveys an order to me, then I must do it and my responsibility is relieved."

Q. What was the business of a fleet there in time of peace?—A. To protect our commerce, to render assistance to our merchants, to aid our ministers, and to do all that possibly could be done in every way where our judgment led us to suppose anything could be done.

Q. Here the minister makes a specific request to you which you refuse or decline?—A. I declined to do it positively, and I gave my reasons.

Q. Those reasons do not appear in this correspondence?—A. I did not write them. I told him what my reason was.

Q. It appears from these documents that Mr. Asboth had received three letters from you in which there was no allusion to his request; that he obtained an answer from your subordinate officer?—A. No, sir; he got it from me in a very emphatic manner; that was when he first asked it. He wrote to me and I immediately went up without delay and told him in the most emphatic manner that he could not go. And I wrote to the government here that I had refused this request of Mr. Asboth.

Q. Does it not require some explanation that the Marquis de Caxias should have said on the 12th of March that this arrangement by which General Asboth was refused a passage up the river, and an ensign from the squadron sent in his place, should have been known to the people there; and that on the 23d of March, eleven days after, General Asboth should write to you saying that he had never heard from you upon this subject?—A. No, sir; because on the 28th of February I had seen Mr. Asboth and had declined to let him go. I at once went to Buenos Ayres and had an interview with General Asboth. It was well known in March that he was not to go; there was no doubt at all in General Asboth's mind upon that subject; it was known everywhere. I did not send an ensign. I asked Mr. Asboth whom he wanted me to send, and said that I would be afraid to send a civilian. He said, send anybody. I sent Captain Kirkland, not an ensign.

Q. Mr. Asboth says he received information of your determination from Lieutenant Commander Kirkland?—A. I told him exactly what I would do. I told him distinctly this, "I will send the Wasp up, and Captain Kirkland, who speaks the language, will bear the dispatches." The matter was settled some time in February; I do not know what day. But there is certainly a letter written in Buenos Ayres, and why it is not here among these documents I do not know. It is a letter to General Asboth, in which I told him positively that I would not write on Sunday, but gave him to understand that I would send the Wasp and a bearer of dispatches.

Q. Do you regard that as important?—A. No, sir; not at all; only as saying that there was a letter. It is of no importance beyond the fact that the letter was sent, and that he understood my views distinctly that he was not to go. After that I saw the Brazilian minister and told him that I was going to send a vessel.

Q. You would make it appear that you were under no obligation to him as a foreign minister?—A. I said distinctly, "It is never pleasant to decline co-operation with our diplomatic agents; but I feel that my own judgment should govern me when it is at variance with that of any other public officer."

Q. That confirms the idea. You write to the Navy Department, you had no connection with any other department of the government and are under no obligation to accommodate any officer of the government, even in that distant part of the world?—A. I do not say that.

Q. I know you do not say that.—A. I say that where our judgments are at variance, we are both to act on our individual responsibilities. If I believe what he wants me to do is not a proper thing for me to do I will act entirely on my own responsibility; and I am as liable to censure for the failure of my judgment in that respect as in any other.

Q. It does not matter to us whether your action is approved or disapproved by the government; what we want to know is that you were right.—A. What I say is this: If the request of the minister conveyed to me information of a fact upon which I was authorized to act, I must act upon it. If there was no minister there, and I obtained information of that fact, I would act upon it just the same; if there is a minister there, I do not think it relieved me from the responsibility.

Q. That is, you were under no obligation to consider the request of a minister any more than of any other citizen of the United States?—A. His official position would always have certain influence with me.

Q. Very slight, apparently.—A. Not at all; supposing the minister was a man in whose judgment I had confidence. Now, if Mr. Adams, or any man like him, should, as a minister, make a request of me, I should probably act upon it; but, unfortunately, all our ministers are not like Mr. Adams.

Q. You say that you would do the same for any other person that you would for him?—A. I would act upon a credible fact that came to my knowledge, whether from a minister or any other person; anything that I could really believe was right I would do. A minister can have his interest and his biases, and I hope I do not say anything disrespectful when I say that a minister may err in judgment. I am responsible for

anything that I take upon the judgment of a minister; I would hold myself in no manner relieved from responsibility because the matter had come from a minister.

Q. What we want to know is as regards the other departments of the government?—

A. If such a man as Mr. Adams were to put a question of this kind before me I should be very doubtful as to going contrary to his opinion. If Mr. Seward was a minister there, I should be very cautious in differing with him, or with any one in whom I had confidence as to his judgment of what I was going to undertake. I think it is about what we do in all responsible positions. I consider that my responsibilities are very serious. I have a great deal of confidence in my own judgment, after I have deliberated upon a question, and where I was to be entirely responsible for my own acts I would rather trust to my judgment. This matter has been before the department; I wrote to them and stated that I considered that I was responsible myself for my action in that case.

Q. And the department approved your action?—A. More than that; Mr. Seward wrote a letter of instructions on the subject.

Q. Is that letter here?—A. I do not find it.

Q. It would be very strange if the Secretary of State instructed a minister that he had no right to call on a naval officer for assistance.—A. Here is a letter of Secretary Welles, in which reference is made to that letter, and from that you may get some idea:

“NAVY DEPARTMENT,
“Washington, May 25, 1867.

“SIR: Your dispatches 17C and 174, under date of April 1st and April 4th, respectively, have been received, with the copies of the correspondence with Minister Asboth. The course pursued by you in declining to furnish that gentleman a passage on the Wasp, to visit Mr. Washburn, is entirely approved. His request to the Secretary of State, of which he furnished you a copy, to be informed as to the reciprocal duties and obligations incumbent on ministers resident and admirals abroad, has been complied with, and he informed that while it is important that the civil and naval representatives of the government abroad should cultivate and maintain social and friendly relations, and that they mutually aid and assist each other in all matters which relate to the interest of the government, neither has authority to control or direct the other. He and other ministers receive their orders from the Secretary of State, while the naval officers derive theirs from the Secretary of the Navy.

“This letter of the Secretary of State will doubtless correct certain erroneous opinions which appear to have prevailed among some of the officials within the limits of the South Atlantic squadron who have labored under the impression that naval officers are subject to their orders and that naval vessels are to be used for their convenience.

“The department embraces the occasion to express its gratification with the courtesy and intelligence, as well as firmness, you have exhibited in the management and disposition of these singular but mistaken demands upon you.

“Very respectfully,

“GIDEON WELLES,
“Secretary of the Navy.

“Rear-Admiral S. W. GODON,
“Commanding South Atlantic Squadron.”

Q. General Asboth declined to give you any order?—A. Certainly; he said he would take the responsibility. But if a minister cannot give me an order I must take the responsibility on my own shoulders.

Q. I will read you what Mr. Seward says in reply to General Asboth's inquiry: “I think proper, therefore, to say on this occasion that, in regard to so distant a theater as that in which the Paraguayan war is carried on, it is not possible for the government of the United States to foresee distinctly at any time the future course of military and political events, and so to anticipate possible emergencies. For these reasons it is inconvenient to give specific instructions for the government of either its political representatives or its naval agents in regard to merely possible contingencies. Powers concerning political questions, as distinguished from naval affairs, are intrusted to the care of the ministers of the United States, and the President's instructions are communicated by this department. Responsibilities of a peculiar character are devolved upon the commander of the squadron, and the President's instructions are conveyed through the Navy Department. It seldom happens that political and naval instructions, which may bear upon such mere contingencies, are in fact or practically can be harmonized between the two departments, each of which generally holds under survey a peculiar and limited field and knows of no special occasion to look beyond that field. If in any case it is foreseen that co-operation between a minister and a naval commander would be practicable and useful, that co-operation is distinctly commanded by the President. If, however, it is not foreseen that such co-operation would be practicable and necessary, or useful, the agent of each class is necessarily left to proceed according to his own discretion, within the range of the general instructions he has received from the department under which he is employed. It is expected that,

in the absence of instructions, the agents of the two classes, if practicable, will confer together and agree in any unforeseen emergencies which may arise, and in regard to which no specific instructions for the common direction of both may have been given by the President."—A. Will you please read a little further on in that letter.

Mr. BANKS read as follows:

"There is no subordination of the minister to the commander of a squadron and no subordination of the commander of a squadron to a minister. It is always unfortunate that agents of the two classes are not able to agree upon a course to be adopted in an unforeseen emergency. But that inconvenience is less than the inconveniences which must result from giving authority to a minister in one state to control the proceedings of a fleet, of whose condition he is not necessarily well informed, and whose prescribed services are required to be performed, not only in the vicinity of the minister, but also in distant fields over which he has no supervision. Nor would it be more expedient to give a general authority to the commanding officer of a squadron to control or supersede the proceedings of political representatives of the United States in the several states which he might have occasion to visit.

"You have no special instructions from this department to seek or hold an interview with the minister at Paraguay. Such a proceeding would have been exceptional, and Admiral Godon seems to have regarded it in that light. Your effort, however, is regarded as judicious and is approved as an exceptional proceeding, not within the customary range of your diplomatic duties, but altogether outside of that range. On the other hand, the President sees no reason to doubt that Admiral Godon's proceeding, in declining to favor such a personal interview, was loyal and patriotic; nor does he perceive any reason for thinking it injudicious or unwise on his part, before deciding upon that matter, to confer with the Brazilian agents at Buenos Ayres."

The WITNESS. No, I did not confer with them. That letter was written to General Asboth and Mr. Washburn because they had reported these things.

Q. I will read on; the letter proceeds as follows:

"It is not every sinister misconstruction of a public officer's proceedings that is to be received and entertained by the government. It is even now impossible, with all the information of which the government is possessed, to determine which party—yourself or the admiral—practiced the wisest and soundest discretion in the matter referred to. Meantime the emergency has passed, and the question has become an abstraction.

"While, therefore, your own proceedings are approved, those of Admiral Godon are not disapproved. In all such cases it is eminently desirable that mutual confidence shall be maintained between the ministers and the naval authorities, that they co-operate where they can agree, and that they suffer no difference of honest and loyal judgment to produce alienation.

"I have now to inform you that, without any reference to the subject which I have thus considered, Rear-Admiral Charles H. Davis has been heretofore ordered to sail from Boston in the *Guerriere*, to relieve Rear-Admiral Godon in command of the South Atlantic squadron. The *Guerriere* is expected to sail on the 1st of June, or within a few days thereafter, and the transfer of flags will be made at Rio early in July. Rear-Admiral Godon will return to the United States in the *Brooklyn*, his present flag-ship.

"I am, sir, your obedient servant,

"WILLIAM H. SEWARD.

"ALEXANDER ASBOTH, Esq., &c., &c., &c."

Now, in a question arising in South America, concerning political matters and distinguished entirely from naval affairs, the political matters being intrusted entirely to ministers, and the President's instructions being conveyed to them through the Department of State, you considered yourself authorized to pass judgment upon those political matters?—A. No, sir.

Q. This was a political matter and you declined to act as the minister desired, and because you did not think it wise for him to go?—A. Because he was to go in a man-of-war.

Q. You did not think it proper to assist him?—A. The only thing I wished was, not to take a minister from the government to which he was accredited and place him in another country where he might find himself in great difficulties and where I could not offer him any protection. I would have to take the responsibility on myself of sending him up there in a man-of-war without any authority. Of course he could go as he pleased; I had no influence upon that. But the government dispatches were things which were to be carried, and I would do all that I could to have them carried. And I thought those people there would be pleased by my going to see the Brazilian minister; and as this thing might be occurring often I went to him and offered to carry up his dispatches, as I might have to ask the same thing of him some time. I do not think they are generally sent that way; I never sent them so at any other time. It is to be remarked in this connection that there was a great deal of excitement there. Those people were indignant at some things. Mr. Asboth was considered as pressing the resolutions of Congress very much. Instead of taking the answer of the governments he persisted in urging it, and I know that eventually they became offended. I saw a letter of the minister in which he said that he considered their sovereignty had

been interfered with by his urging this thing beyond the bounds of propriety. Therefore, while I had my own notions and my own ideas, the moment the matter came fairly before me and I was to act, I followed my own judgment in the matter.

Q. You did not decide upon it as a naval question, but as a political question?—A. No, sir.

Q. You say in your letter "I felt that whatever influence he might have with the Argentine government would be materially lessened by his making a visit at this time to the enemy's country?"—A. That is one of my reasons.

Q. You were deciding political questions?—A. No, sir; I cannot control the way I think.

Q. But you were thinking there in the line of the State Department?—A. I thought for the best interests of the service whether naval or otherwise. As naval officers, educated in a certain way with our minds turned in a certain direction, we must, of course, form our own opinions, and they will at times be at variance with others.

Q. This is the only reason you have given that his influence with the Argentine government would be lessened by his making a visit to the enemy's country. And you say "this arrangement"—that is, sending a bearer of dispatches—"this arrangement will not be objectionable to the allies, but I believe Mr. Asboth's visit would be looked upon unfavorably?"—A. Yes, sir.

Q. Does not that confirm the letter of Mr. Washburn of the 4th of March?—A. I told Mr. Asboth that the moment I saw him; that I believed it would be looked upon with suspicion, and that when he came back his *exequatur* would be granted.

Q. That was purely political?—A. Well, I had to send a vessel.

Q. In this report to the Secretary of the Navy you did not make any allusion to its effect upon the squadron, but your reason was wholly political. And Mr. Welles says that he expects political questions will be decided by the ministers?—A. They are pretty well mixed sometimes.

Mr. WILLARD. As I understand it the Secretary says that he finds no fault with the conduct of Admiral Godon.

The WITNESS. You are reasoning this as lawyers. I am a naval officer and proud to be one. I reason this as a naval man educated in his profession.

By Mr. BANKS:

Q. That is what we complain of. If you had said this, the squadron cannot be put to this use, or it is not safe for a vessel to go there, or had given any reason pertaining to the naval situation, that would have been right. But here you went into the line of the State Department.—A. I was not writing this to the State Department but to the Navy Department. Here is a passage in Mr. Seward's letter which I trust you will not overlook in judging of my views of the matter; he writes to Mr. Asboth, "you had no special instructions from this department to seek or hold an interview with the minister at Paraguay."

Q. That is understood.—A. Then if he had no instructions to do that, and was going beyond his instructions, and I was to aid him in going beyond those instructions, then I was to reason upon the matter also. Mr. Seward says "such a proceeding would have been exceptional, and Admiral Godon seems to have regarded it in that light." Now how was the minister to go beyond his instructions? He was to do so by calling upon another man to put him in a vessel of war and to send him into another jurisdiction. Now I was to be responsible altogether for any trouble that might arise in consequence of that.

Q. That is what we complain of, that the Navy Department assumes to be the government, and declines to grant aid to any other department of the government in doing anything?—A. They will if no trouble results from it. There is another part of Mr. Seward's letter to which I would call the attention of the committee. Referring to this very matter of Brazilian agents, he states distinctly "it is not every sinister misconception of a public officer's proceedings that is to be received and entertained by the government." That was in connection with this very observation which was thrown out at random, and where I think a great injustice was done me by both ministers. Mr. Asboth should have informed me of that part of his communication. And when he did not inform me of that, but simply sent me a little note that he had asked what my instructions were and what our positions were, I thought he was taking a very quiet diplomatic but unmistakable way of telling me that I did not know much about what my business was. That is the only unkind passage between Mr. Asboth and myself.

By Mr. ORTH:

Q. Is there any further statement which you desire to make?—A. There is a passage in a letter from General Webb, where he was pleased to drag me in. Here is a letter from the minister of foreign affairs to General Webb, when they were urging the second time a passage of the Wasp up through the line. It seems they had offered to let him go through the military lines, the same offer that had been made before, but they objected to a vessel being sent up to take him down, because it would break the blockade, and he makes this remark:

"Those reasonable means, which would have reconciled, in a most dignified and

effective manner, the rights of the allies with the wishes of both Messrs. Washburn and Kirkland, were rejected by those gentlemen, who continue to insist in exacting a permission offensive to the sovereign rights of the said allies.

"One of the least of the inconveniences which would happen through satisfying the request of Lieutenant Kirkland and Mr. Washburn would evidently be the nullification of the whole of the blockade established in Paraguay by the allies, who would be laying themselves open to the reception of similar exactions from any other nation which might, under any pretext, demand a like privilege for its ships.

"So true is this, and so worthy of consideration in view of the consequences, on the part of friendly powers, that Admiral Godon himself, in 1866, when the passage of Mr. Washburn to Paraguay was in treaty, was the first to admit, merely begging in his request for the permitting of the passage up the river to Asuncion of the said Minister Washburn, that it should be done in any way which would harmonize with the dignity of the United States and have been most convenient to Brazil and its allies; further desiring that Mr. Washburn might be helped forward to his destination either by land or by water without placing any obstacle in his way."

By Mr. BANKS :

Q. That is undoubtedly a reason for them?—A. Yes, sir, and a very good one. It is the law that one vessel going up through a blockade would break the blockade, as it would give a reason for all vessels to go up.

Q. What I speak about is a naval officer settling these matters.—A. That has no relation to this subject now; I merely quote this passage where he said I had admitted that such was the case. Mr. Webb afterwards writes to Mr. Souza as follows :

"Your excellency next quotes Rear-Admiral Godon, then commanding the United States South Atlantic squadron, as fully justifying the action of the allies in 1868. So correct is this, says your excellency, 'that Admiral Godon himself, in 1866, when the passage of Mr. Washburn to Paraguay was in treaty, was the first to admit it, merely begging in his request the passage of Mr. Washburn, and that he might be helped forward to his destination *either by land or by water*, without placing any obstacle in his way. This is just what the Marquis de Caxias desired to effect in the present instance, had he not been denied the option.'

"It is no news to the undersigned that in 1866 Admiral Godon, having quarrelled with the three United States ministers, in the river Plate—General Asboth, Mr. Washburn, and Governor Kirk—and with the consuls of the United States at Buenos Ayres and Montevideo, instead of simply obeying orders and furnishing the United States vessel, which Mr. Washburn was authorized to demand, to take him to Asuncion, did all in his power to prevent Mr. Washburn's having such conveyance, and on one occasion actually went *north* from this port instead of *south*, apparently to avoid receiving the contemplated application."

Now, it is not true that I had quarrelled with three United States ministers, and the consuls of the United States were my friends. I said that it should be done in a way that should harmonize with the dignity of the United States, and be most convenient to the Brazilian government and its allies.

Q. It is perfectly just for those people to maintain that blockade. But the question comes whether you are to decide whether any matter proposed by the ministers of this government will affect that blockade. They give your authority for it.—A. The reason was this—

Q. It is not a naval question.—A. Allow me to give the direction to what I wish to say. When, in 1866, I saw Admiral Tamandaré, it was an admitted fact that the blockade was established. I had no objection to it; I could not resist it.

By Mr. WASHBURN :

Q. Who admitted it?—A. I did.

Q. Did the other officers admit it?—A. I know I did.

By Mr. BANKS :

Q. It was only a question whether the ministers should pass.—A. That was not the question then. The blockade was established, and of course I saw it was established; therefore I could not take a minister through without authority. But what I want to get at is, that Mr. Webb misquotes this to the minister of foreign affairs, and then turns around and abuses me most offensively in a letter to a foreign minister, and that letter is published in this correspondence. That is what I want to refer to. I said that it should be done in a way which should harmonize with the dignity of the United States, and be most convenient to the Brazilians and their allies. That was the doctrine I held. I said, "I will break the blockade if you do not go through the military lines; and now you shall choose between the two, and I will act so as to harmonize with the dignity of the United States." Mr. Webb throws out the whole of that and says :

"But it is news to him that the then commanding officer of the United States squadron in this station should have permitted his feelings of hostility to Mr. Washburn to render him so forgetful of his duty to his country as to indorse and justify and advise

the Brazilian government in its assumption that it might safely, and with great propriety, refuse to permit one of our national vessels to pass its lines with our minister on board, provided the minister 'was helped forward to his destination, either by *land* or by *water*, without placing any obstacles in his way.'

This is the American envoy extraordinary to Brazil writing to the minister of foreign affairs of Brazil, and misquoting the passage, entirely emasculating it from the strong point that it was for the dignity of the United States. This is an American minister speaking of an American admiral. I refer to this because these matters are before the committee. In connection with that very matter I would like to read a letter from Mr. Seward to General Webb on that very subject. I do not see it published here, but I have a copy of the letter.

So that while an American minister was writing in that way to a foreign minister about an American admiral, he knew that the conduct of that admiral had been approved. And Mr. Webb himself, six months after the correspondence took place, approved the action that I took. But here, in 1868, when it suits his convenience, he goes out of the way and misquotes a passage in order to drag me into the controversy.

WASHINGTON, D. C., April 16, 1869.

Examination of Rear-Admiral S. W. GODON continued.

By Mr. ORTH:

Question. Proceed with your statements if you please.—Answer. I have read some of this correspondence for the first time since it was printed, and new matters present themselves to my mind as I read it. Here is a passage in a letter dated October 1, 1866, from Mr. Washburn to me. I had up to that time never received any letter informing me in any way what had taken place. This letter was in reply to one that I had written; but gives nothing but an extract from the letter of President Mitre. If I had had the whole of President Mitre's letter, I could have judged of the matter. In this letter Mr. Washburn says: "I will add that after President Mitre had closed his correspondence with me, and referred all further discussion in regard to my detention to his government and its allies—" that was just precisely what President Mitre had to do; to write to his government, if he was the President he would not have had to do that. While he is called President Mitre he is literally the commander-in-chief of the allies.

Q. The Vice-President was discharging the civil duties?—A. Yes, sir; and President Mitre was never addressed as the government.

Q. Hence any correspondence with him would be purely military?—A. Purely military, which character of correspondence I had a right to hold with him. I had no right to hold correspondence with the President. If the whole of that correspondence had been placed before me in my naval capacity, I would then have been obliged to write to General Mitre and tell him that this thing is so and so; I had no right in a military line, as I have said. But I never was referred to at all in the capacity of a naval commander where I could have used what General Banks seemed to limit my authority to—my naval judgment, and not diplomatic.

Q. Are there any additional facts you desire to lay before the committee?—A. No, sir; I think not; I do not call to mind any now. There are a great many that I could mention, but I do not think they are important.

Mr. ORTH. Mr. Washburn desires to propound some question to you.

Mr. WASHBURN. I wish to state something in regard to the distinction which the admiral has made between the military lines and the blockade.

Mr. ORTH. You state that as testimony?

Mr. WASHBURN. Yes, sir. I never understood, I never heard anybody suggest, either while I was at headquarters with President Mitre, or at Buenos Ayres conferring with the different ministers, Argentine or Brazilian, that there was any difference between the military lines and the blockade. I find by referring to the correspondence that neither General Webb nor the Brazilian minister made any such distinction, as far as I have been able to see. I read this extract from the letter of the Brazilian secretary of foreign affairs:

"It is true that I asked Admiral Godon whether he was going to send a steamer and his instructions to the river Plate immediately. On his asking the reason of my inquiring it, I said frankly, and of course in a private and confidential way, that it might be convenient that the Brazilian government's instructions should reach their agents before any step was taken in the river Plate to effect Mr. Washburn's passage across the blockade."

Then General Webb in his letter to me says:

"LEGATION OF THE UNITED STATES,

"Rio de Janeiro, August 22, 1866.

"SIR: I have the honor to inform you that instructions have been issued by the Brazilian government to their representatives in the river Plate and its vicinity, withdraw-

ing all obstructions to your passing their line of blockade to your post of duty, whenever it shall be your pleasure to repair thereto. A simple protest against your passing through the blockading fleet will be made, but of that you need not take any notice.

"Very respectfully, your obedient servant,

"J. WATSON WEBB.

"His Excellency CHARLES A. WASHBURN,

"*United States Minister Resident to Paraguay.*"

Then General Webb, in his letter to the secretary of foreign affairs and counsellor to his imperial majesty, uses the following language:

"The dispatch referred to offers in defense of an act so unfriendly to the United States, and so utterly at variance with a well understood principle of international law, a letter addressed by the President of the Argentine Republic to the United States minister to Paraguay, in which he peremptorily refuses to permit the United States minister to pass the blockade of the Paraguay river established by Brazil and the republics of Uruguay and the Argentine, in their war with Paraguay."

Also the following I read from the same letter:

"Under the circumstances and in pursuance of his instructions in such a contingency, the undersigned renews, in the most formal and urgent manner of which he is capable, his demand for an explanation of Mr. Washburn's treatment by the agents and representatives of Brazil in the river Plate and its vicinity; and also, he is instructed definitively to inquire, and to insist upon an early answer to the inquiry, whether it is or is not the intention of Brazil to persist in refusing Mr. Washburn permission to pass the blockading squadron of the allies near the mouth of the Paraguay."

It never occurred to me that it made any difference whether I passed through the blockade or through the lines held by the army. I do not suppose our government had any thought upon the matter, or that it mattered in the least, if I only got through comfortably, and they showed such respect as was due to a minister, they did not care whether I went by land or through the blockade. I understood that blockading the river was essential to establish a military line; General Banks being a military man, could of course tell that technically better than I can.

General BANKS. It is the same precisely.

Mr. WASHBURN. But the admiral seems to have made a great distinction between the two.

Admiral GODON. Allow me to read some of this letter, for I think it explains the subject referred to. It is the letter dated July 2, 1866, from Mr. Lidgerwood to Mr. Seward. It shows that the government did see it precisely in the light I did:

"I desired to learn if reference to Mr. Washburn had been made since the allied forces moved forward across the Parana river, as I understood that thereafter all objections to Mr. Washburn's passing the lines would then be removed. He replied, 'None that he was aware of;' and also expressed the desire to avoid the approach to any unpleasantness of feeling, remarking that diplomatic questions, often easy of satisfactory arrangement, were frequently made difficult by the improper manner in which they were presented, and in this case much depended upon how it was presented there, (meaning the river Plate.) I replied that as yet the subject could not have been presented there, and that to prevent and anticipate an official presentation, with the kindest intentions, and with frankness, acting with the concurrence and advice of the admiral, who participates in my feelings, and to whom instructions had been sent by our government on the subject, and feeling confident that I would be met in the same spirit, I had called to see the minister, and now requested that he should be made acquainted with the position of the case, and that he should appoint an hour when he would be pleased to confer with the admiral and myself upon the subject.

"He answered that he would have a reply sent to me at my residence; then, apparently remembering something, he withdrew, as he said, to examine a document which, when brought by him, was marked on the inclosing wrapper 'June 8; receipt only to be acknowledged, not answered, in cabinet.' He said it was private correspondence to the minister, Saraiva, accompanying which were copies of letters from Viscount Tamandaré (commanding the Brazilian squadron) and from President Mitre to Mr. Washburn. The latter I requested to be read. The subjects of same were the reasons why it is at present (April) not advisable for Mr. Washburn to go through the lines; sympathy for the great republic, &c. He said he would inclose the papers to Minister Saraiva for his examination at once, and that Conselheiro Saraiva had, unfortunately, allowed them to be overlooked upon his table. At 8 in the evening I received a note from the minister appointing 11 a. m. of the ensuing day, at his residence, for an interview.

"I immediately dispatched a messenger to the flag-ship to the admiral to that effect. On the 29th the admiral and myself were received by the minister of foreign affairs, Conselheiro Saraiva, at the appointed time and place.

"I informed him that the order for the special salute at Bahia had finally been received, the delay having been caused by its having been sent to Valparaiso through

error; to which Conselheiro Saraiva replied, that as the United States had recognized the violation of their rights, as committed in the harbor of Bahia, and had agreed to the restitution of the Florida, (which by a casualty was rendered impossible,) also to the punishment of the offending commander, a fact which the Brazilian government had dispensed with, not desiring the punishment of individuals, therefore the government had felt it necessary to insist that the only remaining act of settlement agreed upon should be performed, in order to justify itself before the nation.

"The admiral replied that he, personally, did not consider the mere burning of powder or saluting of much importance, and especially as he had fired several salutes at Bahia, still, as a matter between nations, it was different, and he had therefore written for instructions on the subject, which, though miscarried in the first instance, he had now received, and then inquired if any communication had been received from Señor Octaviano concerning the United States minister to Paraguay, Mr. Washburn, and was answered only unofficially, when the admiral stated that Señor Octaviano had desired an interview with him, which took place, and at which he, the admiral, informed him that he considered the blockade at Corrientes, being in the Argentine Confederation, one of the allied powers, as of no effect, but that if in waters conquered from Paraguay it would be a proper blockade."

Mr. WASHBURN. Who said so?

Admiral GODON. I said so. It was on the subject of the blockade at Corrientes, which I did not admit until after it was retaken by the Brazilians.

Mr. WASHBURN. Was it not retaken from the Brazilians at the time I asked you to send me up?

Admiral GODON. Yes, sir; and therefore I did not admit it was a blockade. However, this is an incidental remark. I read further from this letter:

"He, however, also added that the refusal by the allied forces to permit the American minister to Paraguay to pass their lines, although they might have the right, would still be considered by the government of the United States as an act neither friendly nor amiable, and that this conversation should have been placed before the Brazilian government by Señor Octaviano, and desired to know if he had done so. Conselheiro Saraiva replied that it had *not* been. The admiral, continuing, said that without entering upon the question of the rights of the allies to prevent the passage of a minister of a friendly power to his place of duty in Paraguay, still, the United States government had also the right to send their representative to a nation with whom they are on terms of friendship, and asked the Conselheiro Saraiva if that was not *his* opinion; he bowed assent. The admiral stated further that he had received orders from his government to send a vessel, if necessary, to convey the American minister to Paraguay to his place of destination, and that he would do so; but that, to avoid a clash of conflicting views which might arise therefrom, with all frankness and with sentiments of friendship he desired that the allies should give immediate orders that a safe-conduct through their lines should be given to Mr. Washburn, and desired the minister to give an answer at once."

By Mr. WASHBURN:

Q. I want to ask you if you are not aware that a safe-conduct through their lines into Paraguay was hardly possible except by the river?—A. If you landed at the pass La Patria which was below the blockade.

Q. Below the blockade?—A. Well, wherever the blockade was; if they allowed you to land. And the question was whether General Mitre would allow you to go through the military lines, for if he did not I said I would take you up myself. I read from the letter again:

"He said it would be impossible to give an answer on that point without previously consulting his colleagues, but that it should be given before the sailing of the steamer to the river Plate on the 4th instant.

"The object of our visit, to prevent any misunderstanding, was appreciated by the minister, and the earnest and straightforward remarks made by the admiral received his serious and anxious attention."

Mr. Seward had no doubt about this, because in reply to this very letter Mr. Seward says:

"SIR: I have to acknowledge the receipt of dispatch No. 12 of Mr. Linderwood, of the 2d of July. It contains an account of certain conversations which took place between himself, joined with acting Rear-Admiral Godon, and the Brazilian minister for foreign affairs, on the subject of the obstruction, by the allies, of the passage of the United States minister (Mr. Washburn) to Paraguay.

"The conversation which has thus been reported to this department as maintained, on the part of the United States, in those interviews, by Mr. Linderwood and the admiral, is approved by the President.

"We wait with serious interest for information of the decision of the Brazilian government upon the subject discussed."

Necessarily so, for if they did not give way through the lines I had but the alterna-

tive under my orders to take him through the blockade. I talk of military lines only as lines over which I had no control; and of the blockade as of the only place where I could act. My letter to the Secretary of the Navy says that if Mr. Washburn did not go through the military lines I would take him through the blockade. After that letter was received Mr. Seward wrote to General Webb, minister at Brazil, Mr. Washburn, minister to Paraguay, and Mr. Kirk, minister at Buenos Ayres, that if the obstructions did not cease they were to return to the United States. Now, what was to be done? I had gone too far; I had ordered the vessel to go up. My orders to go up the river were plain; that was a thing I could do. If the allies did not give a permit to go through the lines I was to take him up through the blockade.

Mr. WASHBURN. I had no more doubt about the matter then than I have now; but if I got through the lines by the river it was the same thing to the government as though I had got through by land.

Admiral GODON. So it was; but the question was not that; it was who could take you up, war or no war; it was a matter of great consequence to me.

Mr. WASHBURN. If I am giving my testimony I will proceed. I wish to state over again perhaps a little more fully in regard to my situation there at the time at Corrientes, when I received these instructions, and to call attention to the amount of correspondence and the repeated efforts I had made to get through the lines by land. Here will be found three letters from me to President Mitre before I made my final protest; I do not know but there were more. I went to see him at three different times; he always had some excuse for not giving me a definite answer. One time he must consult his government; at another time the circumstances were changed and he must consult his government again. But he held out the idea that I should be allowed to pass through. He kept me in that very disagreeable place for five months, and only when I made a very strong protest against his duplicity and against his acting in that matter did I get a refusal. I could not go below, for I might expect an answer any day giving me permission to go, and I did not want it said that if I had waited a day longer it would have avoided difficulty. I therefore remained until I got these instructions. I also got the same day, if I recollect aright, the letter from President Mitre closing up the correspondence on his part, saying he must remit it to his government. Therefore I considered it would be not only useless but much worse than useless for me to write another letter to him; for if I had after he had written that letter I was commenting upon, I should receive a renewed denial, and then the case would be very much complicated. Therefore I did not write to him, but as soon as I could get ready I returned to Buenos Ayres again. After I got to Buenos Ayres I went to see the minister of foreign affairs with the secretary, who talked Spanish better than I did, and made the interview official. In that interview I stated the whole circumstances of the case. In fact it was notorious and it was published in the papers, that Admiral Godon had received orders to send me through the blockade. I wish to state here that it was published and known in Buenos Ayres before I came down the river, and they could not by any possibility have got this information from me. I state this from the fact that I understood certain officers were censured for having given this information. I do not know anything about that; I stated the circumstances fully to Minister Elizalde and spoke of my instructions that I must go through. We had a great deal of talk about it, but as I was not the accredited minister there, it was not for me to hold official communication with him if I could possibly avoid it. I, therefore, did not write to him any more than I could possibly help. There is one brief letter in answer to his, I think; I do not know that there is any letter. But I was all the time expecting General Asboth. I had been expecting him for months before to take Mr. Kirk's place as minister. I felt it was not my duty to do anything of my own accord to bring this to a crisis until General Asboth had come. But I had presented all these matters officially to the foreign minister in a former official interview. And, as I said in my letter to Admiral Godon, I had this interview and fully complied literally or nearly so with my instructions.

Admiral GODON. When did you write that letter?

Mr. WASHBURN. October 1st.

Admiral Godon. In the meantime the Shamokin had received orders to go up.

Mr. WASHBURN. But I wish to say this, that I had complied almost if not quite literally with my instructions. I did not inform Admiral Godon before I wrote this letter asking for a gunboat of what I had done. I supposed Mr. Seward had sufficient confidence in me that what I did would be accepted by the admiral, and that I had acted in conformity with my duty. I had received no instructions to tell him how I performed my duty. I considered that I was the interpreter of my own instructions, and that when I had done what I considered necessary, and called upon the admiral for a gunboat, he would send it. I confess I was never more surprised than when I received his letter in which he undertook to tell me what I ought to do, and to say that he should not send a gunboat until I did so. However, he did send a gunboat before I did any more than I had done at that time. I do not know but what that concludes what I have to say in regard to the matter.

Questions by Admiral GODON addressed to Mr. CHARLES A. WASHBURN:

Q. I desire to ask this question. You have alluded to these instructions having been published; the instructions that I had received having been published at Buenos Ayres and Montevideo?—A. The substance of them, or that orders had come out to you.

Q. There was an article in the newspapers?—A. I think so.

Q. The heading was "War with the Argentine government;" do you recollect that?—A. No, I do not.

Q. "War with the Argentine government; Mr. Washburn's instruction to demand gunboats to take him up the Paraguay; Admiral Godon has been ordered to take him up to Paraguay." There was a long article with the instructions in them, not the entirety of them but the substance, of such a character so nearly alike that they corresponded with them to a certain extent.—A. I heard before I left Corrientes, or I saw something I think what the admiral says, that orders had come out that I must be put through the blockade. But that information could not have come from me.

Q. You had seen this in the papers before you got your letter from the Secretary of State?—A. It was then or a few days after; there was no time to communicate with Buenos Ayres, and if there had been I did not communicate because it was impossible. But when I got to Buenos Ayres afterwards and the thing was talked about, I conversed with several people in regard to the subsequent instructions about returning home. And an individual whom I do not care to name, got the substance of what those instructions were and gave it to the Standard.

Q. From whom did he get those instructions?—A. From me.

Q. The other instructions which came about the same time, he did not get from you?—A. He did not.

Q. Why not mention the name of the person?—A. I do not choose to mention it.

Admiral GODON. It might be important for me to know. Mr. Washburn says I found fault with officers for giving this information, and now he refuses to give the name of the person to whom he himself gave the information; however, I do not insist upon it.

Mr. WASHBURN. I will give it if the committee desire it. I do not know that the individual would like to have his name brought in; it does not matter as I see.

Admiral GODON. I do not insist upon it.

Mr. WASHBURN. I had then, as it seemed to me, complied in every respect with my duty, but I must wait for General Asboth. I stated in a letter to Mr. Seward, dated October 3, 1866, "Nothing has yet been heard here of the new minister, Mr. Asboth; should he arrive after my departure his position will be even less enviable than mine, and he may think it incumbent on himself not to present his credentials till further instructed by you." I thought it was my duty to remain there and not return home until General Asboth should arrive. General Asboth arrived; I had before his arrival received this letter from Admiral Godon stating that he had ordered the Shamokin to take me up. I had known all the while that if I had been backed up by the least semblance of authority the allies would make no objection; that they never would stop an American gunboat; I knew it as early as the November or December before; that if a gunboat had been put at my disposal, no serious obstruction would have been interposed to my going up. They might have made a protest; I did not think they would have done that even. But a protest would have been of no more importance then than it was a year afterwards. I was fully persuaded that I could have gone there nearly a year earlier than I did without creating any talk, and without causing one-half the humiliation to the allies themselves. I had no desire to create any ill-feeling anywhere; I only wanted to get to my post where the government had sent me. That I made all the efforts possible, I think this correspondence will show.

Q. I desire to ask another question. A letter was written to you by General Webb, which has been called for. Was not that letter in its entire spirit founded simply on the fact that your instructions had been published; that it was complicating the business very much; that it was exciting feelings there that made it dangerous, and that you had distinctly disclaimed having received any intimation from him, official or otherwise, that obstructions to you going through the lines had been removed?—A. Not in such quite strong terms. The letter will be here and will speak for itself.

Q. Is not that the substance of the letter?—A. Not according to my recollection.

Q. Did he not intimate in the letter that you had had those instructions published, and that he intended to report the matter to the State Department?—A. I have called for the letter. Whatever General Webb said in that letter I replied to fully, and met every charge satisfactorily to my mind. Although I have seen a great deal of General Webb since, and think that I owe my life to him, I said some things in my reply which I would rather have omitted, because I was a little annoyed by some things which he said. Admiral Godon seems to be quite indignant that it should be imputed to him that the general had answered a letter for him. I think that after General Webb got my letter and got my explanation, and knew the whole circumstances of the case, he was about as ashamed of it as Admiral Godon was. This brings me to another matter. This

notice which I have read here, that General Webb sent to me that he had been promised by the Brazilian government that the obstruction should be withdrawn, that letter I attach no importance to whatever; that is, I did not believe the Brazilians would do what they promised General Webb they would do. I knew how they had deceived me. I was perfectly well aware that if I had gone up to the lines again with no more assurance that I should be again detained, and that they would ask me to wait until they could again consult their government. They were fighting all the while for time to delay me without coming to an open rupture. And as they had delayed me already five months I did not intend they should fool me any more. Therefore I paid no attention to that. I proceeded on the hypothesis that they might have done it or might not. It was not to govern my action. And General Webb said that the terms were, "to withdraw obstructions to passing through the blockade." When we got up on the Shamokin Admiral Tamandaré told me that he had received no orders whatever, and that he must stop us. I will state a little more in detail the circumstances of our arriving there, as it seemed quite important. We reached the confluence of the Paraguay and the Parana rivers about 4 or 5 o'clock in the afternoon, I thought; no, it was later, it was nearly sunset. We were immediately boarded by an officer commanding the lower vessel of the blockading squadron. This officer, as I understood it, came to inquire what we were there for, and what we wanted; Captain Crosby had told him that he had come with instructions to take the American minister through to Paraguay. The officer said it could not be done—that the orders were to stop everybody. Captain Crosby said his orders would go through. Then the officers in command of this Brazilian gunboat said that if Captain Crosby wanted to send any communication to the admiral he would give him a gunboat to go up to the admiral, who, I think, was some 25 miles higher up the river. Captain Crosby said he did wish to send a letter to the admiral, advising him officially of what he came for. I think it was about 9 o'clock in the evening that the gunboat started off with the letter of Captain Crosby and an officer to take it, this same Lieutenant Pendleton. About 3 o'clock in the morning he returned and came on board the Shamokin. I got up and went into the cabin, with Captain Crosby, and Lieutenant Pendleton made his report. He said he had seen the admiral, who told him that his orders were to stop anybody and everybody; that he had received no counter-instructions, nothing referring to me or to the Shamokin. It seemed, then, that there would be some difficulty. Captain Crosby had orders from Admiral Godon to go through the blockade. The Brazilian admiral had orders to stop anybody and everybody from going through. Therefore somebody must back out or there would be a collision. But the Brazilian admiral said he would come aboard the next morning and see me and Captain Crosby. I would be glad to have the admiral's attention to what I am saying.

Admiral GODON. I know the whole of it; it is all in the documents.

Mr. WASHBURN. The Brazilian admiral came aboard, and seemed to be very nervous and very excited, and said he could not let us go through. We had the interview in the cabin of the Shamokin; the admiral said his orders were positive and peremptory. In the meantime Captain Crosby had also sent off a letter which he requested to have delivered to President Mitre in regard to the same matter. Before we left we got an answer indorsing or approving whatever had been, or might be, done in regard to our passage through the blockade, which, it would appear, he understood to be a part of the military lines, from his being consulted in the matter. Admiral Tamandaré said that he was placed in a very embarrassing position; he didn't wish to stop the Shamokin, as it might seem to be an act of discourtesy to the United States; and he could not allow it to go through because he had strict orders to stop everybody. He said, however, that, to avoid this difficulty, he would give me a Brazilian steamer to take me and my family and effects through the lines up into the lines of President Lopez. I told him it was too late for that; when I had come before, six or eight months ago, I had proposed to President Mitre and to the admiral on his flag-ship that I would go through any way, alone, leaving my family behind me—any way to get to my post; that I would go on horseback or in a whale-boat; but that now the circumstances were different; that I had been obliged to refer the matter to my government, and that they had sent out orders for me to be taken through; that a gunboat had arrived for that purpose; that a great deal of talk had been created by this delay, and that the dignity of the United States required that the gunboat should go through. Captain Crosby spoke up and said that he had orders to take me to Paraguay, and that he should do it unless stopped by force. Up to that time we did not know whether there was to be a fight or not. I did not presume to counsel Captain Crosby as to what he should do; but as he had such orders I supposed from the signs—the guns being all loaded—that there was to be a fight if Admiral Tamandaré did not back down. The admiral then said: "We cannot afford to go to war with the United States at this time; we must allow the boat to go through rather than to resort to force, and I shall only make a protest against it." The reply of us both was, substantially, that he might protest; that that would not stop us. I then told him that I wanted to send a letter to President Lopez through his lines. After this thing was arranged he was very polite and said that he would do anything to make it agreeable to us—send us fresh beef or anything we might

require; he said he would send an officer from the Shamokin through his blockade with my letter to President Lopez. I prepared my letter and sent it by an officer. I do not know just where he landed, but I think he landed within the army lines of the Brazilians and went through; I had asked Lopez to send a pilot to meet the Shamokin at the point above where the Brazilian pilot which Tamandaré had offered us to take us up through his squadron would leave us, as he could not be familiar with the torpedoes and other obstructions in the river. I received a letter from President Lopez, which is here published, in which he said he would send the pilot, as requested; and it was arranged where his pilot was to come on board, and where the Brazilian pilot was to leave, the Shamokin. It was, I think, 1 or 2 o'clock in the afternoon of the second or third day after we arrived there before everything was arranged. Then we got ready and started up the river with the Brazilian pilot. We passed right alongside the flagship of Admiral Tamandaré, and he had his band of music out and honored us with a salute as we passed by; the flags were dipped on every vessel that we passed, I believe. We got up above the Brazilian squadron to a certain point, when the Paraguayan pilot came aboard and the Brazilian pilot left. We had heard a great deal about the torpedoes there. I must state one other thing; the last thing before we started the same officer who had come on board when we first arrived said that it was expected that we would make no delay longer than was absolutely necessary between the two lines, as they would not engage to suspend their fire more than a few hours, in order that we might not expose ourselves, or impede their warlike operations. They were not aware at that time, however, but what we were going through to Humaita, or perhaps to Asuncion. I did not advise them that we would be obliged to land at Curupaiti by reason of the obstructions in the river. We passed on with the Paraguayan pilot; he took us a tortuous way under the guns of Curupaiti, and there we effected our landing. I wish to state this, as it seems to be somewhat important as bearing on the testimony of the admiral yesterday. The Brazilians would only give us a very short time to lie in that position, as the officer told us; I think the sun was an hour high when we got up there; I had taken up considerable baggage and quite a large quantity of provisions. It was getting so late that the officers hurried everything in order to get us off as soon as possible, so that no pretext could be afforded the Brazilians to complain that their warlike operations had been defeated; we were got ashore as soon as possible; our baggage was landed, a salute fired, and then the gunboat got out of the way; the officer in command of the gunboat was obliged to do that before dark so that the Brazilians could not complain of his having violated the understanding which they had made. But yesterday, the admiral in his testimony complained that Captain Crosby had not put himself out of the line of fire, which it was impossible for him to do without exposing his vessel to be blown up by the torpedoes. It was necessary for me to write back to my government that I had got there safely. When I found that there was to be no time for the Shamokin to remain there, I asked Captain Crosby to leave an officer with me to carry down my report. He left Lieutenant Pendleton and immediately dropped down the river himself. I should have taken it very hard and complained seriously to the government of Captain Crosby if he had not left that officer; Captain Crosby returned immediately and wrote a letter to Admiral Tamandaré, stating that he had left this officer. Yet, on yesterday, the admiral said that he knew nothing about this, although it is published in this correspondence. I would like to ask Captain Crosby, if I may be permitted to do so, whether on the occasion of the protest of Admiral Tamandaré he made a full report to our admiral of his action on that occasion.

Captain CROSBY. Yes, sir.

Mr. WASHBURN. Has that report of yours ever been published?

Captain CROSBY. I have never seen it in print.

Mr. WASHBURN. Do you know that it was ever forwarded to the department?

Captain CROSBY. I do not know.

Admiral GODON. I wrote, under date of December 10, 1866, to Secretary Welles a letter, from which I read the following:

"Commander Crosby informed the admiral that nothing but force would prevent the execution of his orders, and the Shamokin was allowed to proceed, under protest, to Curupaiti, beyond the line of the blockade, from where, after the preliminaries of saluting the Paraguayan flag, &c., &c., a letter was sent to President Lopez.

"I inclose a copy of his reply, No. 7, together with copies of correspondence between Commander Crosby and Admiral Tamandaré, numbered 1 to 6, inclusive."

By Mr. ORTH:

Q. Does that include the report of Captain Crosby to you?

Admiral GODON. I do not know. As I never reported Captain Crosby to the department, I suppose that neither his report nor the other matters were sent to the department. I state in this letter, after what I have just read, as follows:

"As the obstructions in the river rendered it dangerous for the vessel to proceed beyond Curupaiti, Mr. Washburn was landed there, and then Commander Crosby immediately withdrew from the lines of the belligerents to the Tres Bocas, where he

awaited the return of the officer who had accompanied Mr. Washburn, in order to bring back the dispatches he desired to send to the government after his reception by President Lopez.

"The return of this officer through the lines has been made the subject of a protest by the Brazilian admiral, but it seems without point.

"The officer was detained by the military commander until the circumstance of his appearance within the lines was explained.

"Although objections to the passage of the Shamokin were made by Admiral Tamandaré—no doubt to prevent its being looked upon as a precedent—without protest, the relations between himself and Commander Crosby seem to have been of the most friendly character, and the latter officer, in one of his letters to the admiral, thanks him for the great courtesy which has been shown him.

"In closing this subject permit [me] to add that I shall be pleased to learn if my entire course meets with the approval of the department.

"I am sir, very respectfully, your obedient servant."

Q. There is a question as to whether you transmitted the report of Commander Crosby of his operations. What is the custom in the navy in regard to transmitting to the department reports received from officers under your command?—A. That is very irregular; sometimes if they are likely to become important or do become so, they are forwarded. They are all placed on file—are all on record.

Q. They are kept as a history of the operations of the squadron?—A. We keep them very carefully; we are required to keep all documents of that kind.

Q. You transmit such as you deem of public importance?—A. Anything of consequence. Had I reported Captain Crosby for any irregularity, I should have been obliged to report the explanations of his course, if I had called upon him for any.

Q. You do not know whether this particular report ever went to the Navy Department or not?—A. I do not know; these matters were closed, and I considered that the end of them.

Mr. WASHBURN. I want to state this, because the admiral yesterday implied a very severe censure of Captain Crosby for not remaining up the river until I could write my dispatches, which was an impossible thing for him to do.

Admiral GODON. I did not mean that.

Mr. WASHBURN. And for not reporting the fact to Admiral Tamandaré immediately after going below.

Admiral GODON. I think you misunderstood my evidence or the intention of it.

Mr. WASHBURN. I asked you at the time you were testifying, if Captain Crosby did not immediately advise Admiral Tamandaré, and you said you did not know anything about it.

Admiral GODON. I think you misunderstood my testimony. I did not think it right when I first found that an officer had been left behind, and that it had been the subject of another protest. I considered that it was an indiscretion, and that I might perhaps, in consequence, find myself in difficulty. But after I had read the papers over more carefully I found that nothing would come of it, and all that I could say was, that it was a very indiscreet thing. I now feel that it was not a wise thing to do.

Mr. WASHBURN. You would have him not leave an officer?

Admiral GODON. I did not know the position of things. But it struck me at the time that if they had detained that officer and made it necessary for the Shamokin to stay up there, or if it had led to trouble with Admiral Tamandaré, it might have made it necessary to have had Captain Crosby tried by a court-martial. But as there seemed to be no serious result from it, I allowed it to pass by; still I consider to this day that it was an indiscretion, and I suppose I shall consider it so to my dying day. Allow me in this connection to read from Admiral Tamandaré's letter of November 3, dated at Tres Bocas.

Mr. WASHBURN. I am not anxious to hear it unless the committee are.

Admiral GODON. I suppose you are not; but I want to read the passage and then to ask you a question. "Minister Washburn not having wished to accede to any other mode of transportation to Asuncion except in that steamer, based on which existed concessions from the imperial government"—Did this not convey to your mind, or, does it not now, that the concessions made from the government were precisely the concessions I say they made, to pass the military line, and not to pass the blockade?

Mr. WASHBURN. You can put any construction upon it you please.

Admiral GODON. Is not that what Admiral Tamandaré means?

Mr. WASHBURN. I do not know and I do not care; I do not attach any importance to it. General Banks asked a question yesterday in regard to the letters which General Asboth addressed to Admiral Godon, relative to having a passage up the river on the Wasp. I understood the admiral to say that he had answered those letters, but that he did not find any answer published in his correspondence.

Admiral GODON. I do not think I ever wrote to him, stating that I would not let him go up at all; but I told him verbally in conversation. I will state in regard to that matter something more definite. When I had received the letter of General Asboth, I

went up in the Wasp, and told him that he could not go up. On Sunday he called on me and asked me to put it in writing. I told him I would not write anything on Sunday. On Monday I wrote a letter to Mr. Asboth, and my fleet-captain copied it for me in his room, and the letter was brought to me to sign. The reason I did not answer definitely is that I had told him in conversation that I could not let him go, but I said that I would send dispatches. In my letter to the Secretary I said that I had not answered Mr. Asboth in detail.

Mr. WASHBURN. The other day Admiral Godon stated here that in our interviews at Montevideo or Buenos Ayres, he told me that if I would wait a certain length of time, until the season was more agreeable and healthy, he would send me up the river. I wish to read now what I wrote at that time to Mr. Seward, under date of January 16, 1866:

"I reached this place on the 4th of November, and found, as I had anticipated, that there was no way for me to get to Paraguay except on a war vessel of some neutral power. An Italian and a French gunboat had left for Paraguay some time before my arrival here, neither of which had then returned. So I waited the coming of the admiral; but instead of being obliged to wait till the 20th of November, as I had expected, it was the 26th of December, when I learned that the *Susquehanna* had arrived in Montevideo the day before. I had previously sent a letter to the admiral, to be delivered as soon as he arrived, informing him of the position I was in, and requesting him to furnish me the means of getting to my post. But without waiting for an answer to my letter, as soon as I heard the *Susquehanna* was in Montevideo I hastened to that place to urge upon him that there might be no longer delay than was absolutely necessary in dispatching a steamer up the river. To my great surprise, he now talked as if it was very doubtful if he sent a steamer; but he would not say positively whether he would or not. He would very probably go as far as Corrientes (twenty-one miles from Paraguay) himself, and in that case very likely two steamers, the *Shawmut* and the *Wasp*, would go up. He would not decide on anything, however, till he came to Buenos Ayres, which he said would be in a few days. So I returned, and waited for him till the 10th instant, and as he did not appear, I again went to Montevideo. He was still undecided whether he would send a steamer up the river or not, and alleged various reasons why it would not be proper for him to do so. If he did it at all, it would not be till after the arrival of Commodore Rodgers, who was expected here soon in the *Vanderbilt*. I observed to him that that would occasion another delay of at least a month, and that I could not and ought not to delay here that much longer. I must get to Paraguay if it were a possible thing, and I was determined to make the attempt, even if I must make the last part of the journey on horseback or buy a whale-boat, to get through the lines. He then said he would not say he would not absolutely send a steamer up before the arrival of Commodore Rodgers, but he would decide on what he could do after he got to Buenos Ayres and had talked with different parties on the position of affairs. He said then that he would positively be in Buenos Ayres in two or three days. Yesterday, the 15th of January, he arrived, and he had finally come to the conclusion not to send a steamer under any circumstances. The reasons which he gives are so various and extraordinary that I will repeat them, with the answers which I gave."

That was written the day after my last interview with him. Admiral Godon says, in a letter of January 3d, 1866—

"I could not go to Asuncion in the *Wasp* without a greater supply of coal than she carries. As I could obtain this only from the Brazilian naval depot at Corrientes, it would hardly seem gracious in me to first disoblige the Brazilian admiral, if my going did no more than that, and then request him to furnish me with the means of continuing to do so.

"The expenditure of 200 tons of coal at a cost of \$3,000, without other object than simply putting Mr. Washburn in Corrientes, after an absence of a year from his post at Asuncion, might not be approved by the department, and I could offer no better reason for its consumption than the one that Mr. Washburn and his family wished to reach Corrientes in a way which he seems to think more dignified than that of going in a merchant steamer which plies weekly to that place."

I have to say that Admiral Godon did not positively promise me a steamer, and that his representation that I wished to go to Corrientes in a war steamer because it was more dignified than going in a merchant steamer, is deliberately and maliciously untrue.

Mr. ORTH. It is not necessary to indulge in any such remarks as those; the committee simply wish to elicit the facts.

Admiral GODON. I would like to say, if that is testimony—

Mr. ORTH. I have just notified the witness that that is not testimony.

Mr. WASHBURN. I wish to give it as testimony.

Admiral GODON. He has so testified, and I desire to say that what I wrote was perfectly true; my whole conduct justified it.

Mr. WASHBURN. Very well, we have other testimony here. I do not know that I have anything more to say at this time.

Mr. ORTH, (to Admiral Godon.) Mr. Washburn desires that we shall ask you certain questions which he has prepared. And first, I will ask you this question: In your letter of January 23, 1866, you state that there was no vessel in the squadron suitable to send up to Paraguay. Did not the Wasp arrive at Rio while Mr. Washburn was there, and was she not suitable to send to Paraguay?

Admiral GODON. I will read what I said then from a letter which I wrote to Secretary Welles on the 23d of January, 1866:

"In the month of September, not long after I reached the station, Mr. Washburn arrived from the United States, and at once called to ask me if I could not send him to Paraguay on a man-of-war. I told him there was no vessel at that time on the station that could be so employed, and in pleasant talk I informed him that I would like, in course of time, to go up the river myself, and if I could then do anything for him I would; that I did not yet know how matters stood, but would go to Montevideo and there would learn what could be done."

The Wasp did not arrive for a month after September; and I had no vessel in September that could take him up.

Q. Did not Mr. Washburn remain in Rio until after the Wasp arrived?—A. I think it very likely, but when the Wasp arrived there were some preparations made.

Q. Did not Mr. Washburn advise you while in Rio that he could not probably reach his post without the aid of a gunboat?—A. Probably he did.

Q. You say that Mr. Washburn quietly settled himself down in Rio while you went to Saint Catharine and returned; did he not leave on the first steamer after the arrival of the Wasp?—A. I have not the slightest idea.

Q. Was he not waiting there the arrival of the Wasp?—A. I have not the slightest idea. But I had not the slightest intention of sending Mr. Washburn in any vessel from Rio.

Q. Could he have reached Paraguay any sooner had he gone by the first conveyance to the Plata?—A. Had Mr. Washburn left in the steamer that arrived immediately after the Montana, I suppose that he could have got to Paraguay in one of the vessels that he says went up river.

By Mr. WASHBURN:

Q. What vessels were they?—A. The two or three vessels that you said went up.

Q. What was their character?—A. I do not know anything about them. I only know about them through Mr. Washburn's letter.

By Mr. ORTH:

Q. Did you tell Mr. Washburn that you were soon going to the river Plata, and that if you found all other means of communication with Paraguay suspended you would send him up?—A. I do not recollect saying anything of the kind. My intentions were to do everything that I could to facilitate Mr. Washburn's movement when I got up the river.

By Mr. WASHBURN:

Q. Do you say that you did not tell me so?—A. I do not know whether I did or did not; no doubt I told him I would assist him.

By Mr. ORTH:

Q. How soon after Mr. Washburn left for the Plata did you follow him in the flagship?—A. I do not remember now the time that he left. I did not go up very soon, perhaps a month or six weeks.

Q. Did you not promise to follow him in less than two weeks?—A. No.

Q. Did you stop at Saint Catharines on your way?—A. I did.

Q. When you previously went to Saint Catharines what was your object?—A. I went to look after some coal, to exercise, and for one other thing, which I will state. Admiral Bell was expected daily at Rio. He was my senior in lineal rank, but I had been promoted in advance of him. I carried a blue flag, and under the regulations I should have been obliged to wear my blue flag in his presence, and he to wear the red, although he was my senior. I thought that that would not be agreeable to him, and that there might be some little contention about it; and to avoid any naval complication of that kind between officers, I sailed from Rio and did avoid it. When Admiral Bell was afterwards promoted for war services, he took his proper place and was placed above me.

By Mr. SHELDON:

Q. It was out of courtesy to his feelings?—A. Entirely so. I knew the sensitiveness in regard to this matter of rank. I was on my own station, and did not want to haul down my flag in violation of the regulations, nor did my officers wish me to do so. It was a matter of naval delicacy.

By Mr. ORTH:

Q. What is the distance from Rio to Saint Catharines?—A. Five or six hundred miles.

Q. In what vessel did you go?—A. In my flag-ship.

Q. Under sail or steam?—A. Just as the wind happened to be; I have not the slightest recollection; sometimes I went under sail, sometimes I went under steam, I suppose. I did all I could to obey the orders of the department, to burn as little coal as possible. I will say in connection with this that Mr. Kirk afterwards told me that Mr. Washburn was going to report me to the Secretary of State. I had probably repeated what I have said to Mr. Washburn, and it was perfectly known in the squadron. Therefore I believed the statement of Mr. Kirk that Mr. Washburn was going to report me to the Secretary of State.

Mr. WASHBURN. I will read what I wrote to the Secretary of State:

"To sum up his objections, there is only one that has any validity, and that is the expense of the coal. But I do not see that Admiral Godon is at all consistent in his economy of that article; on the contrary, when it has suited his own convenience, I believe he has been very free in the use of it. As I have already mentioned, he left Rio while I was there to go on an excursion to St. Catherines for the alleged purpose of giving his men practice in target-firing. What need of going to St. Catherines for that purpose, when he was going by there, three or four weeks later, on his way to the Plate? Why not save the coal necessary for that trip, and have the target practice when he called there (as he did call) on his passage to Montevideo? He has given the reason since his arrival here. It was this: Admiral H. H. Bell, of the Hartford, was expected about that time in Rio, and to avoid any question of etiquette or punctilio with him, Admiral Godon now says he took a run down to St. Catherines to stay there till Admiral Bell should have come and gone. Thus for a mere matter of etiquette he could take the huge Susquehanna to St. Catherines, a distance of some 400 miles; but he cannot send a little steam tender up to Paraguay, where a war vessel is absolutely needed, because it will consume too much coal. And yet I venture the opinion that the same coal that was burnt on his pleasure trip to St. Catherines would have been more than sufficient for two trips of the Wasp to Paraguay and back."

Admiral GODON. At the time I left the Wasp was not there.

Mr. WASHBURN. Was she not expected there every day?

Admiral GODON. Yes; I had been expecting her for between two or three months.

By Mr. ORTH:

Q. You say that the Wasp could not carry coal enough to take her to Paraguay?—

A. To take her there and back, she could not.

Q. Could she carry any more coal subsequently when they did send her up?—A. Certainly.

Q. For what reason?—A. Because, as I said in my testimony, I found that she carried so little that I took her cabin away, removed her state-rooms, and built a cabin on deck.

By Mr. WASHBURN:

Q. Could you not have done that at the time?—A. When she was not there, no.

Q. When she arrived at Montevideo?—A. I did not think it fit to do so; it took me probably a month or six weeks to do it.

Q. Was not the Shawmut there?—A. I did not choose to send the Shawmut.

Q. I know you did not, or anything else.—A. Or anything else at that time. I had proper reasons for it, which I have stated to the department.

By Mr. ORTH:

Q. You say that no coal was to be had on the river except from the Brazilian squadron. Were there not private coal stations at Rosario, Parana, and Corrientes?—A. I do not know that there were; I know nothing at all about them.

Q. You allege the expense of the coal as a reason for not sending Mr. Washburn up?—A. One of the reasons.

Q. As a reason, not the only reason. Was any proposition ever made to you by any private person to furnish the coal gratuitously? If so, what was your reply?—A. Yes, sir, there was. After I had settled in my mind that I could not go, Mr. Hale, one of the oldest merchants in Buenos Ayres, came to see me. He is an American, and a very respectable man. He mentioned that if that were the only difficulty in my way he would furnish coal to go to Corrientes. I replied, "Mr. Hale, if it is necessary and proper to send Mr. Washburn up to Corrientes, I will burn all the coal in my squadron. But as there is no interest in the matter, I do not see why I should burn any coal to send him up there." It had then degenerated into the simple question whether Mr. Washburn should go to Corrientes or not.

Q. You say that Mr. Washburn desired to go to Corrientes in a gunboat. Did he not express a desire to go above Corrientes in that way?—A. He had been informed positively by me that I would not interfere with the blockade.

By Mr. WASHBURN:

Q. You said to-day that there was no blockade at that time.—A. At Corrientes. But I had admitted to Admiral Tamandaré that I would respect the blockade at Tres Bocas.

By Mr. ORTH:

Q. Did you not receive a letter from Mr. Washburn when you were in Montevideo requesting you to send a vessel to take him to his post?—A. I received a private letter from Mr. Washburn, and considered it merely a private letter in continuation of, a private request that he had constantly made. I never received an official letter, or an official intimation of any kind.

By Mr. WASHBURN:

Q. Was it semi-official?—A. It was neither semi-official nor official, only a private letter.

Mr. WASHBURN. I wish the committee to take notice of one thing particularly: the admiral speaks of the blockade at Corrientes as though it was above Corrientes. Now, I say, and it appears in all the correspondence, that the blockading squadron was below Corrientes during all the time this affair happened, or at Corrientes.

By Mr. ORTH:

Q. Did Mr. Washburn ever modify that request so that you inferred that he only desired to go to Corrientes?—A. After I had told him I could not send him up, and when I offered to take him up in six or eight weeks, that is, send him up in the Shawmut, or some vessel of that kind that could sail and burn little coal.

By Mr. WASHBURN:

Q. Sail up the river?—A. Yes, sail up the river and burn little coal, steaming around the bends, and sailing when the delay would not be a serious inconvenience to the officers. It was then understood that at the end of that time I would send him up to Corrientes. I withdraw that; I called upon him in the presence of Captain Taylor, and told him that while I regretted all these things, was sorry for them, I would do the best I could, and would send him up there afterwards.

Mr. WASHBURN. There is a direct issue of fact; I deny the whole of it.

By Mr. ORTH:

Q. Was there any way for Mr. Washburn to go from Corrientes to Asuncion without a steamboat?—A. Mr. Washburn told me distinctly that if he could get to Corrientes he would go up in a canoe.

Mr. WASHBURN. With a gunboat to take me to Corrientes; that was the distinct understanding.

Admiral GODON. I never heard of the gunboat.

By Mr. ORTH:

Q. You say that if Mr. Washburn should go to Asuncion probably your services would be needed for the protection of a really distressed American. Did you consider that you should not aid Mr. Washburn to reach his post from apprehension of danger and inconvenience to him?—A. No, sir; I could not go through the blockade; that was my reason.

By Mr. WASHBURN:

Q. Go where?—A. Go to Asuncion, passing through the blockade; that was my reason.

By Mr. ORTH:

Q. You say officially in that letter that nothing Mr. Washburn could do would affect your judgment or influence your action. Are we to understand by that that if Mr. Washburn, in his official duties, had placed himself in a position where his own life and the lives of his family were in danger, you would not have gone or sent to his rescue?—A. I will answer that question. The spirit in which it is put shows the *animus* of this whole thing.

Mr. ORTH. I am asking the question for Mr. Washburn. It is a question which I suppose he desired to have answered or he would not have prepared it.

Mr. WASHBURN. Yes, I want an answer to it.

Admiral GODON. I was writing then an official communication to the Secretary of the Navy. I had stated to him the whole matter as it then stood. Towards the close of the affair Mr. Washburn had shown a great deal of unkindness. I wrote that I should wait for instructions and I intended to do so. In writing to the Secretary of the Navy I wrote honestly, precisely as I felt. This is what I wrote:

"I shall be governed by my present views until I receive instructions from the department. While waiting them nothing that Mr. Washburn may do will affect my judgment or influence my actions, which will always be for the best interests of the service."

No unkindness, no remarks, nothing that Mr. Washburn could do to excite in me anger or feeling of any description would affect my judgment or influence my action;

I did more, I wrote in another letter, when I stated that I would send him up in spite of all the feelings which existed then, which I myself had very little of, though I had considerable cause.

"In my letter to Mr. Washburn I have stated that, although he should be offered by the allies a safe conduct through the military lines, I still would furnish him with a suitable vessel to go to Asuncion, not in a threatening way, however, as he seems to desire, but in a friendly yet dignified manner.

"If in doing this I am going beyond the instructions of the department, I would only say in justification that the long delay and inconvenience to which our minister has been subjected already seems to render it proper and expedient that I should, for the dignity of the country, place him beyond the chance of further annoyance."

And again, I read as follows:

"The reasons for my giving these orders remain the same. As I stated in my first letter to the department on the subject of Mr. Washburn going to Paraguay in a government vessel, that I then would not allow anything he might do to affect my judgment or influence my actions, which would always be for the best interests of the service, so will I now be guided by the same motives, and honestly carry out, as I understand them, the wishes of the government.

"I am, sir, very respectfully, your obedient servant."

Having heard that Mr. Washburn was to return unless the allies removed the obstructions, and as Mr. Washburn said they had not been removed, still I let my order continue in force, I say:

"Although Mr. Washburn may not have obeyed his instructions of April 26, Commander Crosby will carry out the orders I have given him, to afford Mr. Washburn a passage to Asuncion upon his written application."

Q. That is your answer to the question?—A. Yes, sir.

Q. In your letter of January 23, you stated that the Brazilian admiral had declared the ports of Paraguay blockaded; while in your letter of May 18, you say that the Brazilian minister, Señor Octaviano, informed you that Mr. Washburn could have gone to Paraguay in a merchant vessel at any time previous to the occupation of Tres Bocas by the Brazilian squadron. This being more than two months after the blockade was declared, how could he go on a merchant vessel?—A. I do not know.

Q. Did any merchant vessel go to Paraguay after the blockade was established?—A. I do not know; I merely stated that Mr. Octaviano said so.

By Mr. WASHBURN:

Q. Did you not know that it was not true?—A. I only stated what was told me.

By Mr. ORTH:

Q. What was your motive in giving this statement of Octaviano to the Secretary of the Navy, when it could not be true?—A. I did not know anything about the truth of it; I merely stated what Mr. Octaviano stated to me.

Q. Then of your own personal knowledge you did not know whether vessels went up there or not?—A. I did not.

Mr. WASHBURN. There was no communication, and the admiral knew it.

Mr. WILLARD. How do you know that?

Mr. WASHBURN. I went up there. I left Buenos Ayres about the 18th of January, and there never was a sailing vessel went above there.

Mr. WILLARD. Was there no difficulty in going to Corrientes?

Mr. WASHBURN. Not at all; they did not object to our going to Corrientes.

Admiral GODON. If I may be allowed to state a naval point I will do so. There might have been five hundred men-of-war lying at Corrientes. As the river is not more than a mile wide one war steamer would be sufficient to prevent anything from passing up although the entire fleet of the admiral might be at Corrientes.

Mr. WASHBURN. Nothing did pass.

Admiral GODON. I am not responsible for Mr. Octaviano's statement. I merely stated what he told me and made no comment about it.

By Mr. ORTH:

Q. In your letter of September 17, 1866, you give as a reason for not sending Mr. Washburn up in a gunboat that he had not complied with the instructions of the Secretary of State. Had not Mr. Washburn done repeatedly all that Mr. Seward had instructed him to do, and had not the commander-in-chief of the allies refused to hold further correspondence with him?—A. Mr. Washburn had not done repeatedly what Mr. Seward had instructed him to do. Mr. Washburn had written repeated letters, but he had never done what Mr. Seward says he should do, because Mr. Seward gave him definitely the words he was to use in the letter he was to write.

Q. Was Mr. Washburn to be the judge and interpreter of his own instructions or were you?—A. Mr. Washburn was to be the judge of his own instructions and was responsible for that; I had nothing to do with his responsibility. But when he was

ordered to send the instructions to me then Mr. Washburn was not responsible for the manner in which I acted upon them or for the construction I put upon them. If it was not necessary for me to see the original instructions, then I would have to take Mr. Washburn's construction of them. But inasmuch as Mr. Seward's instructions to him had been communicated to me, but he had not given me the words of Mr. Seward's instructions, it seemed that Mr. Seward thought he was not very clear about it, and, therefore, that the admiral himself must see for himself. Mr. Seward in his letter states that it was not to be considered an unfriendly act for the allies to deny the permission asked by Mr. Washburn. Mr. Washburn says that it was illegal. Now if it was illegal it was extremely unfriendly; at least it is generally so considered in law.

Q. In your letter of October 24, 1866, you say that General Webb had officially advised Mr. Washburn that all obstructions to his passing the lines had been removed?—

A. Yes, sir.

Q. And that Mr. Washburn paid no attention to this notice. Now, had not Mr. Washburn previously informed you that former promises to him by the allies had not been observed and that he attached no importance to these?—A. Mr. Webb informed me that he had not paid the slightest attention to the official notice, which was as follows:

“PETROPOLIS, September 16, 1866.

“SIR: In reply to your official note of yesterday, received at 7 p. m. this evening, I have the pleasure to communicate, for your information, that on the 22d of August I advised Mr. Washburn officially that all obstructions on the part of the allied fleet to his repairing to his post of duty had been removed.”

I knew he had that information.

Q. The question is this: had not Mr. Washburn previously informed you that former promises to him from the allies had not been observed, and that he attached no importance to those?—A. Mr. Washburn wrote me this: “I had already anticipated the instructions of the Secretary of State, and had requested of the commander-in-chief of the allied armies a passage through their military lines for myself and family. But it has been persistently refused, and I therefore request you to provide me with a war vessel and the necessary convoy, in accordance with the instructions of the government.” Mr. Webb informed me that Mr. Washburn had been informed officially that obstructions were removed. Yet Mr. Washburn never asked from that moment, although the Secretary of State distinctly informed him that their previous acts were not to be considered unfriendly, and that he must dismiss all that had been done, and act in a manner stated in his instructions.

Q. You state that Mr. Washburn urged the propriety of having a United States vessel in Paraguay in order that Lopez, if hard pressed, might leave the country. Are you sure no contingency could arise by which, with the consent and at the desire of the allies, Lopez should thus be allowed to escape and thus save the sacrifice of many lives?—A. My orders were to be neutral; and in carrying out the wishes of my government the lives of all the Paraguayans were of very trifling consideration to me.

By Mr. WASHBURN:

Q. Had it been desired by all parties, had there been a gunboat there, and I had been requested to use my influence?—A. I would have taken the matter into consideration; I think I would have given you a gunboat very promptly.

Q. Was not that a contingency which could arise?—A. If I had been born in France I would not have been an American.

Mr. WASHBURN. I had great hopes if I went up there and there was a gunboat there that Lopez would see that his cause would be lost, and by the assent of the allies and under the protection of an American gunboat would leave the country. It was for some such contingency as that that I desired a gunboat to go up; that was one reason.

Mr. WILLARD. Was that really any part of your duty as a minister?

Mr. WASHBURN. No, sir; my duty was to go up there. [To Admiral Godon.] Was it not perfectly competent for you at that time to give the same instructions to Captain Crosby that you gave afterwards not to take away Lopez or any other Paraguayan?—A. It was perfectly competent, but it was not competent for me to send a vessel through the blockade.

Q. You might have obviated my reason for wanting a gunboat?—A. I might if you had asked me. I would have given him peremptory orders not to do it. If after going up there a minister had the right to give any instructions, this being a political question, my officer would have been obliged to follow those instructions.

Q. Did I ever maintain that I had any right to give instructions to your officer?—A. No, sir; you never did.

Mr. WASHBURN. I believed that Lopez was near the end of his rope, and it was believed that if a gunboat went up, very likely he would want to escape, and the war would then cease. The admiral might have given instructions not to take Lopez under any circumstances, or only with the consent of all parties.

Admiral GODON. I will recall a question you put to me at that time. You said, suppose that a vessel did go up, and so forth, and she was there, and Lopez got aboard. I said he cannot get aboard, because I would give such instructions that he could not possibly get aboard without the consent of the officer. You then said, suppose he did get on board, and it was discovered coming down that he was on board, what would you do then? I told you that if he did get on board by a breach of hospitality, and by breaking my neutral position, I would hand him over to the blockading squadron, and they might hang him as high as Haman. I would involve my country in no hazard and risk at all in that way.

By Mr. ORTH:

Q. Would not Mr. Washburn, being on the ground, be the proper person to judge when such contingency would arise?—A. I concede all these matters, that everything on shore belongs so exclusively to the minister that I had no interest in it. It is only when forced upon me that I have a right to an opinion. When it comes to using a vessel in my squadron, then I have an opinion.

Q. Did not the Wasp draw less water than the Shamokin, on which you did send Mr. Washburn up?—A. She did draw less; but I sent the Shamokin because she was a large vessel, with a fine cabin, and had a certain bearing about her on account of her large guns, which made her preferable. The Wasp had two little pop-guns, 12-pounders. I wanted to make them as comfortable as I could.

By Mr. WASHBURN:

Q. Did you give any orders to Captain Crosby to make us comfortable?—A. He had a splendid cabin.

Q. But it was unfit for ladies.—A. But we live in those cabins. He had one of the finest cabins I ever was in, and a fine stateroom for a lady. I went up myself in it.

Q. But you are not a lady.—A. No; but there was a fine state-room. If I had sent you in the Wasp, there was no place for a lady; you would have been obliged to take the cabin entirely.

Mr. WASHBURN. When I was at Rio, the admiral said he was going to put up a cabin then, and that it would follow down very soon afterwards.

Admiral GODON. You know naval matters are very slow when you are merely accommodating people. When you go to fight, they are more rapid.

By Mr. ORTH:

Q. Which vessel would consume the most coal in making the trip?—A. I suppose the Shamokin; much the most.

Q. What was the object in sending the Shamokin in preference to the Wasp?—A. Because she was a fine vessel, with good accommodations for Mr. Washburn's family.

By Mr. WASHBURN:

Q. Was not the cabin on the Wasp made at the time you sent the Shamokin?—A. Yes; but I did not send her, because she was not as good as the Shamokin.

Mr. WASHBURN. She had fine accommodations; good enough for me.

Admiral GODON. I am delighted to hear it. Then the accommodations of the Shamokin must have been too good.

By Mr. ORTH:

Q. In your letter of January 23, 1866, you say that there were other reasons for your refusal to comply with the request of Mr. Washburn; please state what they were.—A. One reason was what Mr. Washburn had said about having a vessel there to remove Lopez. I did not state this reason at the time, because I did not think it was a very proper subject, and therefore only gave it when I was compelled to give unusual orders to the officer going up.

Q. Did Minister Octaviano state to you that the Brazilians or others of the allies had captured some papers from the Paraguayans, in which papers Mr. Washburn's name was found in connection with some arms purchased or to be purchased by him, and in regard to the money that was to be paid for the same?—A. He did.

Q. State what it was.—A. He said something to that effect pretty much as stated in the question, that there were some papers captured. I think it was about the time that Corrientes was taken; it did not make much impression on me. The statement was that papers had been found in which Mr. Washburn's name had been mentioned in connection with arms; that there had been some investigation about it. I said: "Well, was there anything to show that Mr. Washburn had anything to do with it?" Mr. Octaviano seemed to think that there was not much in it. In conversation he spoke of it, but said nothing that ever led me to suppose that Mr. Washburn was really engaged in it.

Q. Did you ever mention this matter to Mr. Washburn that he might explain it?—A. No, sir; Mr. Washburn was in Paraguay.

Q. Did you ever mention it to any one else?—A. I think very likely.

Q. Did you ever circulate it among other people?—A. I mentioned it as a subject connected with many other matters.

Q. Did you know anything about these papers?—A. I never saw them. Mr. Octaviano left the impression on my mind that the subject of the arms did not amount to much.

Q. Did you ever mention this matter to other people as being derogatory to Mr. Washburn?—A. I merely mentioned it as the subject came up.

Q. Did you ever report the fact to the government?—A. I never did so; I should consider it quite out of propriety and reason to have done so.

Q. In your interview with Octaviano did he ever allude to the offer of money made by Admiral Tamandaré to Mr. Washburn if he would not insist on going to his post, as appears in Mr. Washburn's letter of April 27, 1866, to Secretary Seward?—A. In the interview that I had with Mr. Octaviano, I took two officers with me, Captain Marvin and Captain Kirkland. It was a little warm at first, but when we came down to see that we really understood the subject of the blockade perfectly, Mr. Octaviano told me that he had received a letter from Mr. Washburn which he had never answered. I asked him if it was proper to allow such a letter to go unanswered. He said it was such a letter that he could not answer it. I asked him what there was in it that could not be answered. His reply was in French, but the meaning of it was that it had no point in it, that there was no particular thing in it. The letter stated that he had done a great deal for the Brazilian minister, that he had been absent in the United States, that if he could only have got back six weeks before, he could have gone up the river, and so on. I still persisted in asking why not answer the letter. He said that it was an undiplomatic letter which he could not answer; he said that in diplomacy they must have a point to come at. The impression was made upon me that Mr. Octaviano had not been frank in the matter, and the question constantly came up what was in that letter. I asked him once or twice and he said he would show it to me. He went to his room before these gentlemen to look for it; and said that he could not find it. Some time afterwards I again asked him if he had found that letter for I wanted to judge myself whether he had acted frankly about it. He said he had not forgotten it, but could not show it; he left the impression on my mind that he did not wish to show the letter. When he came to tell me good-bye upon leaving the mission he handed me a letter and I handed it back to him. He said he did not care to have that among the diplomatic papers.

Q. Did he ever allude to the offer of money made by Admiral Tamandaré?—A. No, not by Admiral Tamandaré, but he did allude to an affair of money.

Q. Made by whom?—A. Not by Admiral Tamandaré.

By Mr. WASHBURN:

Q. To me?—A. Yes, sir. Would you like me to state anything more?

Mr. WASHBURN. I am willing to have you state it.

Admiral GODON. I will state all he did say.

Mr. WASHBURN. I would like to hear it.

Admiral GODON. I said to Mr. Octaviano that I did not see anything in that letter that he might not have answered; he said: "What was I to offer to him? What was I to give him? He did not ask for a vessel, but simply said he left it to me to determine what to do." I said, "Well, why did you not offer him to go up there?" He said, "I could not offer that because that had been refused by General Mitre. But it left the impression upon my mind that I must do something. I could not answer the letter; I had seen Mr. Washburn before; he was in Corrientes. He complained of the expense, of the annoyance, trouble, and that the very fact of his having assisted the minister made this thing of immense expense to him. What could I think of in regard to that? I said I will lend you any amount of money; it is a matter which you can do; I have control of it; it is there and I can do it. Well, Mr. Washburn said no, it was not that." He said afterwards that he felt that perhaps that was not the way he ought to do this thing. He sent a person of rank and position to offer him the money.

Q. Did he say the money was accepted?—A. No, sir; it was not. I said to Mr. Octaviano, "Why, you surprise me; did Mr. Washburn say anything?" Mr. Octaviano said no; that he would not accept it.

Mr. WASHBURN. In my testimony the other day I said that another high official had offered me money, but I did not say who it was. I can now say that it was Minister Octaviano, because it has come up in this way.

By Mr. BANKS:

Q. At the suggestion of Mr. Washburn I will ask you a few questions. What do you understand is meant by forcing a blockade?—A. Going through with a vessel.

Q. For what purpose is a blockade established?—A. That is a political question. I have only my naval notions about it.

Q. Is it to prevent neutral governments from holding official intercourse with the governments blockaded, or with their representatives there?—A. A great many years

ago Lisbon was blockaded by the French and English fleet. Commodore Biddle was ordered from the United States to take our minister there in a frigate. He arrived off the port and attempted to go in. They told him to go back; and he went back. On our coast during the rebellion there was another kind of blockade. Our blockade permitted men-of-war to pass through to communicate with the consuls that were within our blockaded ports because they were consuls with *exequaturs* from the city of Washington. Although that portion of the country was in the rebellion, they claimed the right to communicate with their consuls there in some form or another. The government, rather than give them permission to go through the military lines, permitted their vessels of war to enter the blockaded ports. These are two kinds of blockades. The question would come up in a form that I could not answer definitely. When I arrived before a place I would have to decide, or get the minister to decide, what the condition of the blockade would be, and respect it or not, under advisement.

Q. Has the blockading power the right to prevent the minister of a neutral power from going to his post, if necessary, through a blockade?—A. It has, I believe, according to all the received legal authorities.

Q. Is not a blockade for the purpose of cutting off supplies and material aid, and not for the purpose of preventing diplomatic intercourse with the governments?—A. It is for cutting off supplies, material aid, and anything else that is vital to the life of the country; anything that will prevent the war from being continued on the part of the country blockaded. The object is to check the war, not to interfere with neutrals. It is a right accorded to neutrals, as far as international law goes.

Q. Mr. Washburn calls attention to this letter of Mr. Seward to Mr. Webb, dated September 23, 1866, in which Mr. Seward says, "So far from considering the question of the right of Mr. Washburn to proceed to his destination as a debatable one, the United States cannot consent to argue that question."—A. I had written that myself before Mr. Seward wrote it; so that Mr. Seward and myself agreed.

Q. When the blockade was forced as it was by the Shamokin, what injury was inflicted upon the blockaders other than obliging them to let ministers pass?—A. The blockade never was really forced. Mr. Washburn, in his correspondence, and in whatever has been said about it in that way, has always claimed that the blockade was forced. But in my estimation it was not forced at all. The French minister told the admiral that I was allowed to send a vessel up through the blockade under this protest or whatever it was, because I had held a knife to the throat of the minister.

Q. Was not the blockade as effectual after the Shamokin passed, for all purposes except stopping foreign ministers, as before?—A. I think it likely that, under the rule, had any foreign vessel claimed to go up, they could have prevented it.

By Mr. WASHBURN:

Q. With ministers on board?—A. Under the law of blockade I doubt very much if they could have prevented it, although they allowed me to go up under protest. That was one of the troubles in doing it. The protest was to show that they had not permitted it.

By Mr. BANKS:

Q. Would not our government, the circumstances having been reversed, have granted to the ministers of the allies the same facilities for reaching their posts that the United States claimed for their ministers?—A. Through the military lines?

Q. Yes, sir.—A. I think it would; and I told Mr. Octaviano that it would be looked upon as neither friendly nor kind to deny it to us. We cannot tell what people would do; what a nation would do; they would have to be the judges. I think that under ordinary circumstances they would have allowed it. It was an unkindly and unfriendly act on the part of the allies to prevent Mr. Washburn from going through the military lines.

Q. Do you think the United States government took advantage of its superior power over the allies in demanding the right to send its minister to his post?—A. I will read my answer, which, it seems, I have written in advance of the question; in my letter to Mr. Washburn—not to the government, I say:

"I have been unmindful of the inconvenience and seeming discourtesy of the allies in keeping a minister of the United States from passing through the military lines to his post, and have communicated with our acting chargé d'affaires to this government in regard to it, from whom I learned that the obstructions would be removed.

"I feel satisfied that the same information will be given to you when you address the President of the Argentine government, as directed by the Secretary of State.

"The truly friendly relations that exist between the allies now at war against Paraguay and our own government disposes me still more to refrain from committing any act which would seem like arrogance in a great and powerful nation like the United States towards governments too weak to resent it, although they might, in their very weakness, venture to commit indiscretions, as in the present instance."

It was not an act of the government, but if I had done it it would have made it so,

and it would seem like arrogance in me to force my government to do a thing which could be done in a friendly and amiable way.

Q. Was not the government of the United States ready to send Mr. Washburn to his post if the allies persisted in delaying him, even though it did bring on a war?—

A. My instructions were to do that thing. And when they found that I was going to do it under my instructions they instantly saw that the complication would be such as to bring on, probably, a war. Therefore these ministers were all recalled by our government and diplomatic intercourse was made to cease.

Q. Had the Shamokin been fired into would you have considered that a cause of war?—A. Most undoubtedly.

Q. Would Captain Crosby have been sustained by you had he fired back?—A. Most undoubtedly, and there was my trouble.

Q. If no orders had been sent to withdraw obstructions to passing the blockade why did you send orders to Captain Crosby to go through the blockade?—A. I have given my reasons. I had seen the minister. The instructions were to permit Mr. Washburn to go through the military lines. I have stated in my evidence that after having received those instructions, knowing that Mr. Washburn must go through, I told those persons that Mr. Washburn must go through in a convenient way; that he should not pass through the military lines as there was a great deal of feeling; Mr. Washburn had shown a great deal of feeling about it, and there might be some trouble in passing the military lines which would involve questions of a most serious nature, and there was a lady in the case. I sent up a vessel on my own responsibility, and wrote to the government that I might still be held responsible for thus going beyond orders, but that I believed that I was doing about right.

Q. If, as you stated yesterday, the only orders of the Brazilian government referred to passing the military lines and had no reference to the blockade, why did you order Captain Crosby to pass the blockade?—A. Because, as I had told them this thing had lasted long enough, it had been such a discomfort in every way that now as they had conceded that he should go up there, he must go in a proper way; that I did not want a lady to go through the military lines. And it was allowed under protest. I had a letter from Secretary Welles in which he stated that it was the desire of the government that Mr. Washburn should go up to his post, and I was determined that he should go as comfortably as possible.

Q. Were you not apprehensive that Captain Crosby would be stopped when you wrote to the Navy Department that you had in a semi-official notice ordered Captain Crosby to disregard any protest?—A. I did not believe he would be stopped; I had no fear at that time that there would be anything serious. I wrote that note to Captain Crosby with the intention of aiding his judgment as far as I possibly could.

By Mr. WASHBURN:

Q. You call that semi-official in your correspondence?—A. Yes, sir.

Q. Was that any more semi-official than my letter to you?—A. I wrote it in connection with my orders, so that in case of any accident he could fall back upon it.

Q. Was it not marked private?—A. I wrote it so that he could go ahead and do what he had to do, and there was my letter to relieve him from the responsibility.

By Mr. BANKS:

Q. You advised him in this note that nothing but absolute force should stop him?—A. So I did.

Q. Was that such a note as would have relieved Captain Crosby from responsibility?—A. I think it would. I told him frankly and candidly in the note all I thought; I went as far as I possibly could. I considered when I wrote that letter; I consulted with my fleet-captain at the time, a very clear-headed man, and I said that in sending it I was giving specific orders, but that there were contingencies, and that I would write the letter. I did write it and kept a copy of it. I do not keep copies of my private notes at all; but I kept a copy of this, and I wanted to relieve my captain of a responsibility which I was assuming. I was as honest in it as I could be.

By Mr. ORTH:

Q. I understand that you declined to send Mr. Washburn to Paraguay because to do so would have compelled you to break the blockade?—A. Yes.

Q. Why did you subsequently send him, and thus force the blockade, when the instructions from the government only authorized you to do so after the refusal of the allies?—A. Because permission had been granted him to go through the military lines, and there was an understanding that there would only be a protest at going through the blockade.

Q. Had you that understanding before you issued your order to Captain Crosby?—A. Yes, sir.

Q. With whom did you have that understanding?—A. In a confidential way I had a conversation with the minister, and he said, well, that I could do it under protest.

Q. Supposing you had had no such intimation from the Brazilian minister?—A. Then I could not have gone up.

Q. If you had not received this intimation from the Brazilian minister, that as you held the knife to his throat, as he termed it, he would consent to your going up under protest, you say you could not have done it?—A. I could not have done it, because there was no reason for it, as Mr. Washburn could go through the military lines.

By Mr. WASHBURN:

Q. Where was the permission granted to go through the military lines?—A. I read you from Mr. Webb's letter: "SIR: In reply to your official note of yesterday, received at 7 p. m. this evening, I have the pleasure to communicate, for your information, that on the 22d of August I advised Mr. Washburn officially that all obstructions on the part of the allied fleet to his repairing to his post of duty had been removed."

Q. You say that I received permission to pass through the military lines?—A. Here it is.

Q. General Webb says the blockade?—A. As far as that letter was concerned it was so, so far as Brazil was concerned.

By Mr. BANKS:

Q. Suppose that the Brazilian admiral had insisted on not allowing the Shamokin to pass, what instructions had you given Captain Crosby in that case?—A. Captain Crosby had to go.

Q. What was the date of your order to Captain Crosby to take Mr. Washburn to his post?—A. October 5.

Q. What was the date of your later instructions?—A. I do not remember; whether he could get my letter in time was another thing.

Q. Why did you not give those instructions with the first orders, so that Captain Crosby might have the benefit of them upon going up the river?—A. That is a very pertinent question. I do not know of any reason at all, except that in thinking over the matter and considering the difficulty that I might be in from doing more than I had authority to do, I saw there might be trouble, and I wanted to relieve Captain Crosby as much as I could.

Q. You understood it better on the 21st than you did on the 25th?—A. Yes, sir; I had trouble all around me, but I was doing the best I could; still it was very possible I might not do all that was right, and might be broke about as soon as anything else. I had heard that there was some possibility of trouble about the thing. I wrote to Captain Crosby on the 8th of October, and began in this way: "I have sent you an order to take Mr. Washburn and his family up to Asuncion; it would be well that you should know how matters stand," and so forth.

By Mr. WASHBURN:

Q. Did you ever receive from me at Rio, or at Buenos Ayres, or anywhere else, anything but respectful, courteous, and gentlemanly treatment?—A. I do not know that I remember anything particular about it.

Q. Everything was perfectly decorous?—A. Yes, sir, as much so—

Q. There was a difference of opinion; there was no correspondence passed between us except what is published?—A. None, except that private letter

Testimony of Captain Clark H. Wells.

WASHINGTON, D. C., April 16, 1869.

Captain CLARK H. WELLS examined.

By Mr. ORTH:

Question. Are you in the service of the government?—Answer. I am commander in the United States navy.

Q. Where were you during the years 1865 and 1866?—A. I received in July, 1865, orders to take command of the United States steamer Kansas, fitting out at Philadelphia. When I reported that vessel ready for service, I received orders to proceed to Brazil, making first the port of Bahia, which was then considered the headquarters of the South Atlantic squadron, and to report for duty to Rear-Admiral Godon. Subsequently I received orders to stop at Cape Haytien, island of Hayti, and to remain there for the protection of American citizens and interests while the revolution there lasted. I stayed there I think nearly two months; I am not certain now. After I had performed that duty, I was relieved by the United States steamer De Soto, which brought me orders from the Secretary of the Navy. I think the order was signed by Mr. Fox, the Assistant Secretary of the Navy, to repair to Brazil. I arrived at Rio, December 7, 1865, and found at anchor the United States steamer Juniata, commanded by Captain Almy. He informed me that the day before Admiral Godon had left for

Montevideo, stopping at Saint Catharines. I remained there some time overhauling, and then I was sent by Commodore Rodgers, who had arrived there, to go to a place called Abrolhos. There was a report at Rio that the Brooklyn had been lost on those shoals, which report proved to be unfounded. It was one of those reports which sometimes have a circulation, and you cannot trace them to any particular source. I went up there with Captain Almy in the Juniata. Captain Almy had given me orders from Admiral Godon to go to Saint Catharines to coal, to exercise the crew with the great guns, and then to proceed to Montevideo. I arrived at Montevideo, January 27, 1866, and found Admiral Godon there in the flag-ship, Brooklyn. The gunboat Nipsic was there, and the Wasp was there. During my stay there from January 17 to February 19, in my several conversations with Admiral Godon, he frequently alluded to Mr. Washburn, always introducing the subject himself. He spoke of his having arrived out there and that he had written to him frequently, and sent him up the river in a gunboat to the place of his destination. I then discovered that Admiral Godon showed an evident disposition not to send Mr. Washburn to the place of his destination. The drift of his conversation always made that impression on my mind. On my return from the Falkland islands, which was April 19, 1866, I found that he had gone up the Uruguay river, and that Captain Almy was the senior naval officer at that port. I do not know how long, but within a few days after I arrived, I received orders to repair to Buenos Ayres; I left for that place May 24, and arrived May 30. In the interval Admiral Godon had arrived at this port; he again referred to Mr. Washburn, and on one occasion—I do not recollect the date—he read to me a letter which he had addressed to the Secretary of the Navy, in which he stated that he was not to know officially that Mr. Washburn occupied the position of a minister of the United States, as Mr. Washburn had never informed him officially of that fact; and that his objection to sending him up the river was that he would consume a great deal of coal. I think he stated between \$4,000 and \$5,000 worth. I took the ground as I always have, and always will, that an American minister had a right to go to the country to which he was accredited; that the laws were wrong in this matter. He replied that Mr. Seward had decided differently; he evidently did not like the manner in which I had expressed my opinion. In connection with this matter, I will say that after Rear-Admiral Godon had read this letter to me, I distinctly recollect asking him the question, did you furnish Mr. Washburn a copy of that letter? He said no, that he had not, and then closed the book.

Q. You say that he gave certain reasons, among others the large consumption of coal. Did he in that conversation urge an objection to taking Mr. Washburn up through the blockade of the allies?—A. Yes, sir, he did in connection with the consumption of the coal.

Q. Those were the two objections?—A. Yes, sir. What he had of a personal character I do not know. At that time I had never met Mr. Washburn.

Q. What did he say with reference to the blockade?—A. He said the allies had a right to prevent the American minister from passing the blockade.

Q. Did you at any time, in any conversation with Admiral Godon, hear him say or judge from his conduct that he had purposely avoided being officially informed of the fact that Mr. Washburn was our official minister?—A. I never heard him say that.

Q. Did you hear him say that he based his refusal to accommodate Mr. Washburn upon the ground that he did not know officially that he was a minister?—A. I only inferred that he used that as the pretext for not sending him to his destination.

Q. What caused you to infer that?—A. The manner in which he generally spoke of Mr. Washburn. I had received the impression, knowing Admiral Godon as well as I did, that he would throw obstacles in the way of any minister.

Q. Why?—A. From the fact that in his official course, particularly on this station, he always seemed to make it a rule to ignore every American minister.

Q. What did you ever hear him say in reference to American ministers generally?—A. I have heard him express himself very contemptuously, not only with regard to Mr. Washburn but also Mr. Kirk. I never heard him allude to Mr. Webb; he seemed to have made General Webb an exception.

Q. Will you please go on with your narrative?—A. I arrived at Buenos Ayres May 30, 1866, and had instructions from Admiral Godon to act as the senior naval officer of that port, and to place myself on a friendly footing with the officials. Mr. Kirk was the American minister at that place. Mr. Washburn was up the river, I think in the neighborhood of Corrientes. When I received orders to leave for Montevideo, which I think was about July 11—I may not be exact about the dates after all—I left, and arrived there on the 15th. In the interval I sailed over to a port called Colonia, which is opposite Buenos Ayres. I there fell in with an Italian gunboat, called the *Ardita*, Captain Raccia. That officer spoke English fluently. He stated that he had met with Mr. and Mrs. Washburn at Corrientes, and had become quite well acquainted with him; that on one occasion Mr. Washburn, by his invitation, visited his vessel, and that he had saluted him; that before firing the salute he was in doubt whether Mr. Washburn was invested with any official position; that he had heard that he was the American minister to Paraguay, but from the fact of his arriving there without any means of reaching his

destination, even the people in the neighborhood had their doubts about it; but that he had fired the salute nevertheless. I told Captain Raccia that he had done perfectly right, that he was saluting an American minister. I arrived at Montevideo July 15, and remained there until September. September 14 I left again for Buenos Ayres, where I remained until the 20th. October 13 I left again for the port of Buenos Ayres. About this time General Asboth arrived, and Captain Crosby, who commanded the Shamokin, and myself were ordered by Admiral Godon to escort the general up the river to Buenos Ayres. I had also a private letter from Admiral Godon desiring me to extend to the general all the honors that I could give him on the way up, firing guns and making a fuss over the general, in order, I suppose, to produce a good effect upon the people. I remained from October 13 to December. On this occasion I became acquainted with Mr. Washburn, who had returned from Corrientes. He was living at a hotel, and in his conversations with me upon the subject of his troubles, he always expressed himself temperately. I have no recollection of his ever having said anything which I could construe as being disrespectful to my superior officer, Admiral Godon, who commanded the squadron. But he did allude on several occasions to the manner in which he had been kept away from his destination; he felt so sore about it that the people living in Buenos Ayres frequently made their remarks about it; that there were articles appeared in the newspapers, which were unfriendly in their character; that he had no desire to occupy any such position in the estimation of the people. Moreover, every intelligent, respectable American, and nearly every Englishman, were of the opinion that Mr. Washburn had been very unjustly dealt with by Rear-Admiral Godon.

Q. What are the relations between you and Admiral Godon—friendly or otherwise?—A. Unfriendly. They had their origin, mostly, nine-tenths of them, on account of my having been on friendly terms with Mr. Washburn.

Q. Prior to this period you were on friendly terms with the admiral?—A. There had been no rupture at all, no open rupture.

By Mr. WILLARD:

Q. Were there unkind feelings before that?—A. I had no very particular admiration for him. Still I did my duty. I had received several complimentary letters from him for services I had performed; not very complimentary, but as complimentary as he was capable of writing. I had heard about this coal business, that Mr. Hale and some Americans had offered to furnish coal to enable Mr. Washburn to go up the river.

By Mr. WASHBURN:

Q. What was the motive of the Americans in doing that?—A. I suppose they saw that the minister was treated with indignity, and that it had the effect to bring our country in disrepute with the Argentine Republic; that we were losing very much of the importance which we had already, and which we still held in that country as a nation. After remaining there until December, I was then ordered to repair to Montevideo, and not Admiral Godon, who had returned from Rio. I arrived at Montevideo December 16, 1866. When I went on board to report to him, which was on Sunday, it was about the time of his dinner hour, and he invited me to take my dinner with him, which I did. He then alluded to my having been on terms of intimacy with Mr. Washburn. I told him I had been; that I had visited him frequently; that I liked him, and that I liked Mrs. Washburn. There was nothing else said then, at least the conversation did not go on to any extent on that occasion, it being Sunday. A few days afterwards I was sent down to a place called the English Bank for the relief of an English merchant ship. On my return from extricating the vessel, for which I received a letter of thanks from the English government and the British admiral, Admiral Godon was at Buenos Ayres or up in that direction. He returned in a few days; when he charged me with not having written to him about Mr. Washburn, his conversation, and his movements while I had been acting as the senior officer in the ports of Montevideo and Buenos Ayres. I told him that I did not consider that that was any part of my duty; that my duty was to report to him everything official; but as for writing of Mr. Washburn what he said, or about his movements, or anything connected with him, I never could perform any service of that kind. I said it in considerable warmth, and he charged me with being disrespectful in language and manner. I disclaimed any intention of that kind. He then stated, and he did it very abruptly, as I thought, with a view of drawing me off my guard, that I had advised Mr. Washburn to publish the instructions which he had received in the Buenos Ayrean Standard. Those instructions were to the effect that Admiral Godon should take Mr. Washburn up the river at all hazards. I asked Admiral Godon for his authority for any such statement, and he declined to give it. I denounced the author of that statement and told him, so far from giving any such advice to Mr. Washburn, I happened to be at Montevideo, a hundred miles off, when these instructions appeared in the newspaper, and I had merely glanced over the paper containing them, but had not read the whole of them. I then stated to him that he had on more than one occasion outraged my feelings; that I had no desire any longer to serve in his squadron; that he had upon more than one occasion insulted me. He replied that I should go on board my ship; that he would not put me under suspension. I obeyed the order.

While smarting under this imputation of Admiral Godon, I applied officially to the Secretary of the Navy to be relieved from the command of the United States steamer *Kansas*, assigning as a reason that I had been promoted on the station to a commander, and was therefore entitled to a large vessel; but that I had also reasons of a special character which I would at some future day make known to the department. I forwarded that communication to Admiral Godon, sending it by the cockswain of my boat, and indorsed on the outside of it the subject-matter of it. That application he returned to me because it happened to be Sunday.

By Mr. WASHBURN:

Q. Was it the same Sunday that he had the dance and music aboard his vessel?—A. No, sir; it was some other time; I only heard of that; it did not occur then. I sent the same application to him the next day. By some mistake I had indorsed the subject-matter on the outside of the envelope; there I made a mistake. He then hoisted the signal for me to repair on board; this was in the afternoon. When I went on board I was told by his acting fleet captain, Lieutenant Commander Marvin, that the admiral was taking a nap, and that I should wait there. I was invited by that officer into his state-room or office adjoining the cabin, which invitation I declined to accept. I remained on the quarter-deck nearly an hour before the admiral sent for me. He seemed to be very much excited, very much enraged. He referred to this application of mine. I told him that I had no desire to serve any longer in his squadron. I was standing at that time against the side-board in the cabin, and was perfectly respectful in manner and in language. He spoke of my repeated disobedience of orders, and said that while I was serving in his command I was to understand that I must obey his orders. He accompanied this with an offensive and insulting gesture, shaking his finger in my face. I called his attention to it and he repeated it. I again called his attention to it in these words: "Admiral Godon, you are shaking your finger in my face." He then ordered me in the most peremptory manner to go on board my vessel under suspension. As I was leaving the cabin I asked him if I should transfer the command to the executive officer. He shook his finger again towards me; at that time I was some three or four feet from him; he said that he knew what his duty was, and that I should go on board my ship under suspension. I remained under suspension two days, the first suspension that had ever been inflicted upon me in a naval service of over twenty-six years. By the rules and regulations of the service I was obliged to confine myself to the cabin, about one-third the size of this committee-room. I was not allowed to go to any other part of the ship, except, perhaps to use the water-closet; that was on the upper deck. While under suspension I made a report in detail of this outrage to the Secretary of the Navy. I wish to state, however, that during this time I had orders to proceed to the coast of Africa on a cruise, to visit the ports from the Cape of Good Hope up. I reported all these indignities which I had endured. I attributed them mostly to my friendship for Mr. Washburn, and because I did not conform to the strict regulations of the service, which require the official communications to be sent to the commander-in-chief of the squadron. To protect myself from further indignities which I knew he would visit upon me if I presented this report of his conduct in person, I confided it to Surgeon Wells of the *Shamokin*, requesting him to place the document on board the flag-ship as soon as he learned I had left the port of Montevideo. When I had arrived at the Cape of Good Hope I forwarded a duplicate of the report to the Secretary of the Navy, indorsing upon the outside that the original had been left for transmission to him. I presumed, as a matter of course, that Dr. Wells had taken that communication on board the flag-ship according to my request.

By Mr. WILLARD:

Q. How long prior had you received orders to go to the Cape of Good Hope?—A. A few days before this open rupture took place. After visiting the ports in Africa I returned to Rio, and arrived there on the 21st of July, 1867. I found orders awaiting me which were handed me by Captain Woolsey, who had in the mean time arrived there in the *Pawnee*, that I should fill up immediately with coal and proceed to St. Catharines, and after having remained there ten days or two weeks for the purpose of coaling, exercising the men on shore in battalion drill, and firing at target in the harbor, I was to proceed to a point off Rio Grande in search of a sunken rock, where gales of wind in the winter season were very frequent, to search for that rock for five days of clear weather. I think I must have been two weeks getting that kind of weather, taking soundings. I did not discover the rock, nor has it been discovered to this day; probably it never will be.

By Mr. ORTH:

Q. Is there not a rock there?—A. There had been a report brought into Montevideo by some Brazilian navigator or ship-master that he had seen a rock. But the Brazilian ship-masters are very unreliable. What he saw there, I suppose, was the back of a whale, or a floating log, or a portion of a wreck. On my return to St. Catharines I

received several very insulting, improper, and unmilitary communications from Admiral Godon, alluding to my having forwarded the document to the Secretary of the Navy in an irregular way, and having stopped at the Cape of Good Hope when I had no orders to do so. I stopped there on account of the leaking of my ship. He characterized my report to the Secretary of the Navy of his conduct as an incendiary document, and said that it had been circulated throughout the squadron. On my arrival at Rio, on my return from the coast of Africa, I found a letter from Dr. Wells, returning to me the original report. He stated as a reason for returning it, that if he had taken that report to Admiral Godon, he would have incurred his displeasure. He said nobody had seen the letter but himself, although it was open, as all official letters transmitted through your superior must be. I never had any doubt in my own mind that Dr. Wells had complied with my instructions otherwise, as I had stated in my letter to Admiral Godon I would not have sent a duplicate of it from the Cape of Good Hope to the Secretary of the Navy. The reason why I sent it was that I had heard Admiral Godon say that unless a letter was germane to the subject, although addressed to the Secretary of the Navy, he would not forward it.

Q. Do you attribute this conduct of Admiral Godon to any other cause except your friendship for Mr. Washburn?—A. I am pretty certain there was some *animus* before I joined that squadron. But I had made up my mind to perform my duty, as far as I could do so.

Q. So far as this committee is concerned, we desire only to know so much of this transaction as relates to the matter before the committee.—A. I desire to state that, in consequence of my friendship for Mr. Washburn, I was visited with persecution from the time I arrived at Montevideo until I left the station; that, although I had given these explanations, they were not satisfactory. I produced documentary evidence to show that I had his authority to go to the Cape of Good Hope. He brought up my sending that document; my going to the Cape of Good Hope; my having disobeyed orders, when it was his order that I should report to him after my arrival at Rio. Those orders were so ambiguously expressed that Captain Woolsey understood them to mean that I should remain at St. Catharines. Instead of accepting my statement he sent an order placing me again under suspension. At that time I was suspended nine days because I had disobeyed his orders in stopping at St. Catharines. I was confined again in that small cabin. My health had not been very good since my return from the coast of Africa, for I had had the African fever; but I was obliged to confine myself to those quarters or else be liable to dismissal from the service. The command then fell to the executive officer. By the law, my suspension expired in 10 days, expired at sea, and in five days after that I arrived at Rio, where I found him. As soon as I reported my return in person, carrying with me a detailed account of the service performed since I made out my last report, he met me at the cabin, and, in a very insulting and improper manner, asked me if I had brought those orders on board which he had sent me. I told him that I had not; that I did not suppose it was usual for a person to bring orders to the person from whom they had emanated. He said, "Go and bring those orders." I did so; when I came back he opened again upon me, very much enraged and very much excited, gesticulating a great deal, and spoke of my disobedience of orders; of having gone to the Cape of Good Hope; of having forwarded a document to the Secretary of the Navy with a false indorsement upon it. On this occasion he had Lieutenant Commander Marvin in as a witness of what he said. I have no very distinct recollection of his precise language, but he was very violent and very menacing. I was obliged to submit to it, knowing that if I committed myself he would have me in his power. I remained quiet pretty much of the time. He then stated that he would receive from me any statement on paper, having reference, I suppose, to my withdrawing my application and that report, and that my command would be restored to me. I had no answer to give him; I had referred the matter to the Secretary of the Navy and desired a court of investigation or a court-martial. I was again ordered under suspension; this was the third suspension he had inflicted upon me. The other had expired only five days before. While I was under suspension, General Webb visited the *Kansas* and found me in that condition. He told me that, knowing Admiral Davis as well as he did, this suspension would be taken out on his arrival. Fortunately for me, Admiral Davis came in and released me from suspension and reinstated me in command after I had submitted a portion of the correspondence I had had with Rear-Admiral Godon. All of this was in the presence of Admiral Godon. He was then about leaving for the United States. Admiral Davis told me that he thought it was best under the circumstances that I should return to the United States; that he would detach me regularly; that I should go home in the *Nipsic*, and that in doing so he wished to do me a personal kindness. He said that I would arrive in the United States free from suspension or any charges that Admiral Godon might bring against me. That was the first intimation I had that Admiral Godon contemplated preferring charges against me. I confessed my surprise to Admiral Davis. He said that he did not wish to have anything to do with Admiral Godon's troubles; that he regretted what had occurred; that he had very pleasant recollections of what had taken place at

the battle of Port Royal, where Admiral Davis was the second in command. I told the admiral that, as much as I desired an investigation into all the charges brought against me and an exposure of the indignities I had endured while under the command of Admiral Godon, I knew very well that if he carried out that order detaching me and sending me to the United States, he would be separating me from my witnesses, who were on that station, and that it was due to me to have this investigation where the witnesses were. But the admiral did not want to be troubled with it. I came home and reported my return to the Secretary of the Navy, and pressed this matter upon Mr. Welles as much as it was possible for a man to do. I courted the strictest investigation into my conduct. Mr. Welles said he was very sorry that our relations had been so unfriendly; that Admiral Godon, in a conversation with him on this subject, had disclaimed any intention of insulting me by his gesticulations; he said that Admiral Godon was a Frenchman; that he was naturally excitable, and that he had gesticulated in that way to him. I told him that I did not think Admiral Godon would dare to shake his finger in his face. Mr. Welles then seemed inclined to order an investigation. I had submitted documentary evidence refuting all the charges. Mr. Welles thought the matter had better drop; that it was unfortunate; that I had better let the matter die out. I told him it was a matter I thought of the first thing in the morning and the last thing at night, and that I would be willing to go out on the station and place myself under arrest for an official investigation into these troubles. He would not consent to that, and, after an interview which lasted half an hour, I left him. I addressed several letters to him after that, and on one occasion was shown unofficially by a clerk in the Navy Department the charges against me, which were, sending up a report, making false indorsements, remaining at St. Catharines, stopping at the Cape, and so forth. That was the first and only time I ever saw those charges. They never were sent to me by the Secretary of the Navy, and probably, without this investigation by the committee, never would have been brought to light. Secretary Welles, when I asked for a court of investigation, said there was nothing on the records of the department which affected my standing as an officer and a gentleman; that he would write me such a letter as I would think to be satisfactory. He dismissed the case and did write a letter characteristic of Mr. Welles, who was disposed not to make trouble. He spoke about the voluminous character of the correspondence; that the reports of each officer were exaggerated; that there was a great deal of feeling, and finally dismissed the case, so that no trial or investigation ever took place.

Q. Have you that letter?—A. I have. Just before the last administration expired I heard that Admiral Godon had never been furnished with a copy of that letter. It was intended to be satisfactory to me, although there were some passages in it to which I took exception; it was a considerable reprimand to me, and also to him. But when a junior comes in contact with a senior the difference in rank governs it to some extent. I have pressed this matter again, upon the present Secretary of the Navy. I have been told by my friends that if the investigation was not granted to me on the ground that it was already disposed of by the Secretary, I would have an ample opportunity to vindicate myself before this committee. That is one reason why I have gone so fully into the nature of the indignities I have endured.

By Mr. WASHBURN:

Q. Do you know what was the reason for the antipathy of Admiral Godon to me?—A. I had reason to believe that it was from the fact that Mr. Washburn showed so much desire to reach his destination, wrote to him so frequently upon the subject, and also that the admiral ignored pretty much everybody out there holding official position who differed with him.

By Mr. WILKINSON:

Q. Did you ever hear him use any discourteous or improper language in regard to Mr. Washburn?—A. Unless the committee insist upon it, I would decline to answer that question.

By Mr. ORTH:

Q. Why do you decline?—A. Because he did make use of an expression such as no naval officer should make use of, and, for the sake of the service, I would prefer not to answer that question.

Q. You are not a voluntary witness at all. These questions are put to you by the committee, and it is for them to judge of the propriety of the questions. Any answer you may give here would not implicate you in any way, for the reason that it is the act of the committee, and not your act.—A. Then I am to understand that you insist upon a categorical answer to a categorical question?

Q. We would like to have it in order to show the *animus*. There is some reason why this transaction has assumed this peculiar phase.

By Mr. WILLARD:

Q. You will state the time when it happened?—A. It occurred on or about December 16, 1866, on my return to Buenos Ayres, when I went on board the ship, on Sunday, to report to him my arrival from Montevideo. It occurred at his dinner table.

By Mr. WASHBURN:

Q. On Sunday?—A. Yes, sir. In speaking of Mr. Washburn, he called him a damned son of a bitch. I made no reply; I ate my dinner in silence, and shortly afterwards left.

By Mr. WILKINSON:

Q. You think his enmity grew out of your friendship to Mr. Washburn in a very great measure?—A. Yes, sir; it brought it to an open rupture.

By Mr. WASHBURN:

Q. What was the general feeling in the squadron towards the admiral and towards me among the officers?—A. I never heard any officer speak in an unfriendly manner of Mr. Washburn. I think he had the good wishes of all the officers.

Testimony of Captain Thomas H. Patterson.

WASHINGTON, D. C., April 19, 1869.

THOMAS H. PATTERSON, captain United States navy, sworn and examined.

By Mr. ORTH:

Q. How long have you been connected with the navy?—A. I have been in the navy 33 years.

Q. Where were you employed during the years 1865 and 1866?—A. I was on the blockade of Charleston until June, 1865. I was on leave from the last of June until the 19th of September, 1865; I was then ordered to the command of the Brooklyn, and sailed from New York the latter part of October for the coast of Brazil, to join the squadron under the command of Admiral Godon. I reached Rio about the middle of January, 1866.

Q. What vessels then composed the squadron?—A. I did not find any vessels of the squadron in Rio at that time; the Kansas and the Juniata belonging to the squadron had been sent out to search for me, the ship having been reported lost. They returned to Rio before I left; I left there early in February, stopped at St. Catherines to coal, and proceeded to Montevideo, where I arrived about the middle of March.

Q. Was there plenty of coal at St. Catherines?—A. About a thousand tons.

Q. For what business was that coal there?—A. It had been deposited there, I think, during the war; I am not sure how long it had been there; it was government coal, anthracite. From St. Catherines I went to Montevideo, as I stated, where I reported to Admiral Godon on board the steamship Susquehanna, which ship the Brooklyn relieved; he transferred his flag to the Brooklyn, and in the course of two or three weeks afterwards the Susquehanna left for the United States, and the Brooklyn remained the flag-ship of Admiral Godon while he was in command of the squadron, and he returned to the United States in her.

Q. You have had command of her during the whole of that time?—A. Yes, sir.

Q. Where did the Brooklyn go during that fall and summer?—A. In the month of May she went to Buenos Ayres, from which point the admiral went up the Uruguay river in the Wasp; I do not know exactly how far he went; he did not inform me where he was going.

Q. You never learned from him where he went on that visit?—A. I heard him make some allusion to General Mitre in connection with that visit.

Q. Did he make any allusion to General Urquiza?—A. He did not.

Q. Were there any American interests there needing the protection of the navy?—A. There was an American house at Higueritas.

Q. Did you ever hear him speak of Mr. Kirk advising him not to go?—A. I landed in Buenos Ayres after he had left. I received a communication for the admiral while he was gone; I inquired who it was from, and was told that it was from the Brazilian special envoy; that letter I forwarded to Huegeritas by mail; I do not know the contents of it; they said it was important.

Q. Did Admiral Godon never allude to the contents of that letter in your presence?—A. No, sir, that I recollect, after he returned from his visit up the Uruguay.

Q. To what point did the Brooklyn proceed?—A. I returned to Montevideo, leaving the admiral at Buenos Ayres, or still up the Uruguay, I do not remember which; he rejoined my vessel in the course of a week or ten days afterwards. From Montevideo, in May or June, we went to Rio, and from there to Bahia; from that point we went north 1,200 or 1,400 miles.

Q. What was the object of your visit on this occasion?—A. I do not know that there was any specified object more than to visit one of the ports on the coast and indicate our friendly feeling. The Brazilian flag had been saluted there by order of one of our

men-of-war, and we followed that vessel very soon afterwards and found her there when we arrived.

Q. What had that salute to do with your paying the visit?—A. I do not know that it had anything, directly; it seemed to be a mere ordinary visit of a man-of-war to one of the ports of his station; I think we remained there two weeks or upwards; we had a long passage to Bahia, I think 18 days; we sailed a great deal on our return trip, and it must have been as late as August, or later, when we left Bahia. We then returned to Rio, and I was sent off 60 or 70 miles southward to practice, and was absent 10 days perhaps, when I returned again to Rio. We remained in Rio then until late in November, if I am not mistaken.

Q. Was there any special necessity of remaining that long, that you know?—A. None that I know of. Late in November we returned to Montevideo, reaching there, I think, the latter part of December.

Q. When you reached Montevideo where was Captain Crosby with the Shamokin?—A. I cannot say whether he was in Montevideo or Buenos Ayres; he was in the river somewhere.

Q. Had he returned from his visit to Paraguay?—A. I really cannot say; I do not think he had returned when we arrived; I never met Captain Crosby until I met him in this committee-room in Washington.

Q. When did you first know of his being in Montevideo or Buenos Ayres, on his way to Paraguay?—A. I knew of it in March, 1866, when I first reached Montevideo; I was told of it by Admiral Godon.

Q. What did Admiral Godon say to you in reference to Minister Washburn at that time?—A. I do not know that he ever said anything to me directly; in conversation with others, he has spoken freely in my presence; he said Mr. Washburn had applied for passage in one of the vessels of the squadron to go to Paraguay, and the only reason assigned for his refusal to take him was, that he had no vessel in proper condition which could carry a sufficient amount of coal. I did not know Mr. Washburn personally, and took very little personal interest in the matter.

Q. What did you ever hear Admiral Godon say of Mr. Washburn as to his character as a public minister or as a man?—A. I never heard him use any harsh language. I have heard him make use of this expression, that he did not attach any importance to his going to Paraguay. I have heard him say Mr. Washburn was not a man of intelligence, but that was so common an expression of Admiral Godon in speaking of people, that I did not think anything of it.

Q. What have you heard him say in regard to American ministers generally? Did he speak of them favorably or unfavorably in your presence?—A. I never heard him speak unfavorably of them; I think he was favorably impressed with Mr. Kirk.

Q. He regarded him as a man of intelligence?—A. I never heard him say he was not a man of intelligence; he always spoke very pleasantly of him. The admiral and General Webb seemed to be on very excellent terms until a very few days before we left Rio the last time, and General Webb was a guest on board our vessel for about a week at one time.

Q. Have you ever been up to Asuncion?—A. I have not.

By Mr. SWANN:

Q. Did the admiral ever manifest any hostile feeling towards Mr. Washburn?—A. Never in my presence.

By Mr. WASHBURN:

Q. Did the admiral speak to you ever in regard to sending a gunboat up the river under sail? And would it not require three times as much coal to go in that way as to go directly by steam?—A. I do not know whether the river was winding or not; if the turns were frequent and sharp, it would require less coal to go up under steam all the time; you could not save anything by using sails.

By Mr. ORTH:

Q. When you say Admiral Godon made objection to taking Mr. Washburn on account of the small quantity of coal the vessel carried, what vessel had he reference to?—A. The Wasp.

Q. Do you know the capacity of the Wasp?—A. At that time she had very inferior accommodations; I do not know anything as to her capacity for carrying fuel.

Q. The Wasp came from Liverpool to Rio, did she not?—A. Yes; but in making that passage she would stop at Madeira, and at the Cape de Verde islands; still I do not suppose there was any serious question as to her capacity for carrying coal on a trip to Paraguay. We had no coal depots on that river, but there was an abundance of coal at our stations; there was a very large depot of coal at Montevideo. The coal at Montevideo and Buenos Ayres was not the kind of coal ordinarily used for steamers, but was such as we could very well have used.

By Mr. WILLARD:

Q. Was there a depot of American coal at Montevideo?—A. Yes; and I suppose there was at Buenos Ayres; I cannot positively say as to that. I know that mail steamers were in the habit of going backwards and forwards, and I suppose coal was to be obtained there of the proper kind and quality.

Testimony of Charles A. Washburn.

WASHINGTON, D. C., April 19, 1869.

CHARLES A. WASHBURN, recalled and examined as follows:

By Mr. ORTH:

Question. What do you know, of your own personal knowledge, in reference to the supply of coal at Montevideo, and in points on the Paraguay or Uruguay rivers?—Answer. I have been up and down the river a great many times from Paraguay. There was always a large quantity of coal at Montevideo; as much so, according to my belief, as there is at Brooklyn, Philadelphia, or Boston. It is the intention of the coal dealers there to keep a supply equal to any emergency; sometimes the supply becomes short, but it is only for a few days. There is coal in abundance at Buenos Ayres, at Montevideo, and then at Rosario, 300 miles above Buenos Ayres, there is always coal. I think I never passed Rosario in a steamer (and I have passed it 15 or 20 times) that the steamer did not take in coal there; I do not remember of there ever being any scarcity; the supply there was, I think, of English coal. At Parana, about 150 miles above Rosario, there is another coal station; and there is still another point between that and Corrientes. In regard to taking a steamer up that river without burning coal, the idea is purely ridiculous; it would require, very likely, three or four months to make the trip; the river is very winding, in some places eight or ten miles broad, looking like a succession of lakes; the channel is tortuous, and you seem at one point to be landing into an island in this direction, and then into another island in that direction, to all points of the compass. The idea of going up in a sailing vessel would be perfectly absurd. I have here a rough sketch, showing the situation of the various points up the Paraguay river to Asuncion. When I arrived at the mouth of the river at Buenos Ayres, the squadron of the allied forces was not then at Corrientes, but was scattered along the river. I waited for the admiral to send me up about two and a half months, when I went up to Corrientes alone, and found the squadron there.

Q. What special object was there in blockading that river? Had the Paraguayans any vessels at all?—A. They had. The object, however, was particularly to prevent supplies from going up there. They had allowed a French and an English gunboat to go up through what they call their blockade before I reached there. I, of course, did not appeal to Mr. Kirk to get permission for our gunboat to pass, until I found out whether the admiral would send one, as it would place us in a ridiculous light to ask permission for a gunboat to pass, and then find the admiral would not send a gunboat. When President Mitre told me they had no right to stop me, I returned to Buenos Ayres to get a letter from the minister of foreign affairs; but unfortunately, the steamer on which I started to go back run aground, and was delayed so long that when I returned the squadron had left from opposite Corrientes. The armies had commenced active operations, and President Mitre told me that circumstances had changed, so that it would be necessary to consult the allied authorities again before permission could be granted. When I first went to Corrientes, Admiral Tamandaré and President Mitre both stated they would have no right to stop a gunboat from going up, and as I have stated, when I returned circumstances had changed. Indeed, I had waited for Admiral Godon four months before the decision was made again not allowing me to go through.

By Mr. WILLARD:

Q. Did these French and English gunboats, to which you have referred, have special permission from the Argentine government to pass up the river.—A. I do not know as to that. It would have placed me, of course in a ridiculous position for Mr. Kirk to have obtained permission for a gunboat to take me up, when the admiral refused to send me. The admiral did not refuse to send me, but on the contrary led me to suppose he would do so until the middle of January, and I did not therefore write home for instructions. He delayed me by his course in this way, so that it was just one year from the time I landed in Buenos Ayres until I landed in Paraguay. And all this trouble, it seems to me, has arisen from that.

EXHIBIT I.

Mr. Webb to Mr. Washburn.

LEGATION OF THE UNITED STATES,
Rio de Janeiro, October 22, 1866.

SIR: Admiral Godon has just shown me a letter from you dated Buenos Ayres, October 1, but which left that port on the 12th, after the arrival of the English steamer Arno in the river, upon which our recently appointed minister to the Argentine Republic was a passenger. In that letter occurs the following paragraph:

"On the receipt of that letter, (your dispatch to Mr. Seward,) still stronger instructions were sent not only to me, but to our minister at Rio, Mr. Webb, and our minister, who it was supposed would be here before this time, Mr. Asboth. Peremptory orders were given to the two latter that if my detention was continued, and if within six or eight days satisfactory explanations were not given them, they were to ask their passports to return to the United States, if the hindrance alluded to had not ceased through some proceeding on the part of the allied powers. *No proceeding to cause such hindrance to cease has yet been made* by the allies; and from the fact that Mr. Asboth has not yet arrived, whose action with that of Mr. Webb was to have been concurrent with my own, I am yet obliged to remain here, to await still further instructions, unless in the meanwhile you shall furnish me a vessel of war, and it shall be allowed to pass up to Paraguay."

It would appear from the foregoing, that my letter of the 22d of August, which must have arrived at Buenos Ayres on the 28th of the same month, has not reached you. Since then, *three* mail steamers have sailed from Buenos Ayres and duly delivered their mails at this city; but no acknowledgment of my official letter to you has been received, and of course, the inference is irresistible that it did not reach you. This inference would seem to become a *fact*, when you inform Admiral Godon "*that no proceeding to cause such hindrance to cease has yet been made.*" But, then again, the accuracy of this statement is directly called in question by the fact set forth by you in the preceding sentence of your letter, viz: "My instructions also were to return to the United States if the hindrance alluded to had not ceased through some proceedings on the part of the allied powers."

The question then arises, why you have not obeyed those instructions and returned as instructed, to the United States, within the time to which we were limited, if, as you gravely informed the admiral, "*no proceeding to cause such hindrance to cease has yet been made by the allies.*" If this be so; if my letter of the 22d of August, advising you that all such hindrance and obstruction to your repairing to your post of duty had been withdrawn, not only by Brazil, but by the allies, did not reach you, I cannot understand under what possible reading of our respective instructions you could have remained in the river, or have asked of Admiral Godon a vessel of war or "a portion of his squadron," to convoy you to Asuncion.

True, at the first blush of an affair in which the allies were so manifestly in the wrong, our government very naturally determined that you should be conveyed to your post of duty by our squadron at any and every hazard. But it would seem, that from considerations of our strength and the weakness of the three powers at war with Paraguay, this decision was reversed; and instead of war, a suspension of diplomatic relations was determined upon. And in the contingency, which you say has actually and offensively occurred, a continued refusal to permit an American minister to pass the military lines of the allies, your right to ask for a vessel of war to convey you to Asuncion, and the right of Admiral Godon to force those lines, was distinctly *revoked*, and you as distinctly and peremptorily ordered to return to the United States. I received similar instructions, but in no possible event were my movements made dependent upon yours; nor could they, as you allege, have been "concurrent." I was directed to demand of Brazil that all let or hindrance to your passage to Asuncion should be at once withdrawn; and if not, then to demand my passports and return home. I did make such demand, although it had been peremptorily refused only a few days previous. Such refusal, no matter how offensively made, could not be considered by me any excuse for disregarding my instructions from our common chief, and therefore, while a peremptory refusal to permit you to pass was made by Brazil in her own name and on the part of the allies, and while that refusal was on its way to the United States, instead of considering it a bar to further action on my part, I *demand*ed that your rights should be respected. To that demand, made in obedience to orders, while the ink of the previous peremptory and offensive refusal was scarcely dry, I received the fullest written assurance that the previous action of the allies would at once be reversed, and that you were at full liberty to pass their military and blockading lines, on your way to your post of duty, whenever you thought proper to do so. That withdrawal of all hindrance to your passage to Asuncion I communicated to you on the same day, August 22, and beyond all question my letter reached Buenos Ayres

on the 28th of the same month. And so important did I consider the reversal of the action of the allied powers, that I forwarded on the 24th of August to Mr. Adams, in London, the substance of my letter to you, to be telegraphed across the Atlantic to the government of Washington.

But suppose that, in consequence of the previous peremptory and offensive refusals, I had not made any such demand as that which both you and I were ordered to make, or suppose the demand made had again been refused; what then? Why, I should have returned to the United States by the first conveyance, well knowing that there was no such thing as "concurrent action" with you or General Asboth contemplated, but that each of us were *ordered* to do our duty irrespective of the others, and that we were invested with no discretion to refuse obedience to such order by reason of any possible previous discourteous actions toward us, on the part of those to whom we are respectively accredited.

And that which was clearly my duty in the premises, was, most assuredly, your duty under your equally plain and significant instructions. If you did *not* receive my letter of the 22d of August, advising you that all obstructions by the allied powers, to your passing up the Paraguay, had been removed, and if, as you advised Admiral Godon six weeks after my letter should have reached you, and a longer period after you were ordered to return to the United States in a certain contingency—if, I say, as late as the date of your letter to the admiral, "no proceeding (of which you are advised) to cause such hindrance to cease has yet been made by the allies"—then, beyond all peradventure, you should long since have returned to the United States, and you had no authority whatever, to ask or demand of Admiral Godon a vessel of war to convey you to Asuncion. That authority was revoked when our government decided upon a suspension of diplomatic intercourse instead of war, for the forcing of a blockade is war; and instead of calling upon the admiral to send you to Paraguay, it appears self-evident to me that your duty was to have returned home without any unnecessary delay. I rejoice, however, very sincerely, that there existed not the slightest necessity for your so doing; and I again officially advise you, that on the 22d day of August, notwithstanding its previous peremptory refusal to do so, the government of Brazil authorized me to communicate to the government of Washington, for itself and in the name of its allies, that all obstructions to your passing to your post of duty in Paraguay had been removed.

I regret exceedingly that my letter of the 22d August, conveying to you this intelligence and also Admiral Godon's letter, apprising you that I had officially communicated to him the important fact contained in my letter of 22d August, should have *miscarried*, and that by the steamer which left Buenos Ayres, more than six weeks after you should have received my letter, you should have informed Admiral Godon that there has been no change in the offensive and illegal action of the allies. That you so thought, I cannot for a moment doubt, but that is entirely the result of a grave misconception of your instructions. You and I were respectively *ordered* to demand that all obstructions to your going to Asuncion should at once cease, and unless our demand was promptly acceded to, we were instructed to return to the United States. Both of us had been peremptorily and discourteously refused a precisely similar demand within a few days of our receiving the final instructions alluded to. Both, unquestionably, experienced the same feelings at being ordered to do precisely that which we had just done without success. But I, as an old soldier, at once bottled up my pride, tried to discharge my duty, and obeyed the order, while you, consulting your *feelings* instead of your *duty*, refused to renew your demand, and so informed Admiral Godon. In so determining, and neglecting to follow out both the letter and spirit of your instructions, you have for nearly two months remained in ignorance of the fact, that beyond all question, if you had followed out the course indicated to us by Mr. Seward, you would not now be laboring under the extraordinary miscarriage of my letter of the 22d of August, and Admiral Godon's letter advising you that I had officially communicated to him the substance of my very important letter of the 22d August.

A copy of that letter you will find inclosed.

Very respectfully, your obedient servant,

J. WATSON WEBB.

His excellency CHARLES A. WASHBURN,

United States Minister Resident to Paraguay.

P. S.—The fact that you, Mr. Kirk, and I, were all ordered home, in the event of the obstructions to your proceeding to Paraguay not being removed, was a state secret, known only to you and to myself. I confined it as a "state secret" strictly to my office, not even communicating it to our consul here. Not a whisper of what had occurred ever got before the public, but on the return of the steamer from the river it was known to everybody, and had been *published* in the press of Buenos Ayres! Of course this government was exceedingly irritated, and I am annoyed at such a proceeding, and of course *you* were very generally censured for having made or *permitted* such an unnecessary exposure. It was known to this government and to me, that Mr. Kirk had gone home; and consequently that you only, at the river, could have received

the information and promulgated it. Here, it did not get out of my possession and the possession of this government, and you may judge, therefore, of their astonishment and indignation at the public being apprised through the Argentine press, that, to use their own language, "they had been *bullied*" into permitting your passage through their lines. In addition to this, it was stated to this government and written to me from the river, that you publicly boasted of your intention to *force* their line of blockade with the United States squadron on this station.

To all this, and the annoying complaints made against you by this government, I could only urge that, *most probably, some friend in whom you had imprudently confided had betrayed your confidence.*

WEBB.

EXHIBIT J.

LEGATION OF THE UNITED STATES,
Asuncion, April 3, 1867.

SIR: Your very long letter dated October 21, 1866, was received by me on the 23d ultimo. Had you quoted any law or cited any order or regulation of the State Department by which you were constituted my censor and were authorized to lecture me on my official shortcomings, you would have done me a great favor. I had previously supposed that I was only responsible to our common chief, the Secretary of State, for my official acts, but I was doubtless wrong in that, for without due authorization from the government, you, "as an old soldier," would not have written a letter to me the propriety of which might be questioned. But as the letter is written and received and a copy has doubtless been sent to Washington for no other object, as I can see, but to prejudice me at the department, I must in self-justification reply to it.

The occasion that seems to have called forth this extraordinary indictment is a letter from me to Admiral Godon dated October 1, 1866. Why the admiral did not answer his own letter I know not. Whether his temper was too much ruffled or he felt he was not adequate to defend himself, or whatever may have been his motive for calling in your assistance, I do not fail to appreciate the compliment you pay me when you, a veteran diplomatist, envoy extraordinary and minister plenipotentiary, and the admiral of the squadron, unite your ponderous intellects to overthrow and confound one unpretending minister resident. Indeed "'tis a fearful odds," but as "thrice is he armed who hath his quarrel just" and as my only defense will be a simple statement of facts as they transpired, I warn you beforehand to "mark now how plain a tale shall put you down."

It was the 25th of January of last year that I left Buenos Ayres to make my way to Paraguay. It was not till about the middle of that month that the admiral gave me a definite answer to the question whether he would send me up on a national war vessel or not. When I met him at Rio in the month of October preceding, he had said that he would do it if the usual channels of communication should be found closed, but when he reached the Plate he at first hesitated, quibbled, and chattered, and finally when he reached Buenos Ayres on the 14th of January, he positively declined to send a gunboat. So on the 25th I took passage on a merchant steamer, leaving my wife with some friends in Buenos Ayres. I made my way to Corrientes and thence to the headquarters of the army, when I told President Mitre I desired the usual facilities to pass through the lines to my post. His reply was that in his opinion I had a right to go through, but it was a question for his government rather than himself to decide. He would at once refer the matter to it and as soon as he should get an answer he doubted not I could pass through with every convenience provided. I replied, "If that is the case I can go down to Buenos Ayres, and if your government agrees with you I can return with Mrs. Washburn in the same time that you are waiting for the reply of your government." So I returned to Buenos Ayres and had a conference with Señor Elizalde, the minister for foreign relations, and he said the government were of the same opinion as President Mitre, and he accordingly gave me a letter to the latter requesting him to furnish me all the facilities for passing through that the government had promised me.

With this document I came back to Corrientes, and from there I went to Paso de la Patria, where I asked the minister of war, Gelly y Obes, to take me to President Mitre's camp. He said the president would come to the Paso the next morning and I could see him there. He did not come, however, but sent Gelly y Obes to me with a request that I should first see Admiral Tamandaré, with whom matters could be arranged as well as with himself. So I went on board the flag-ship, when the admiral told me I could not and should not go through under any circumstances. He said his orders were to stop any and everybody, and he had a perfect right to stop me, as was acknowledged by Admiral Godon in an interview he had with him while in Buenos Ayres. I then went to see President Mitre, and gave him Elizalde's letter. But he declined to respect

it. He said circumstances had changed since I was there before and he must again consult his government before he could give me a final reply; and he kept me there in Corrientes for five months waiting his answer. At length, after repeated evasions and requests for more time, now to refer the matter to his government, now to await the arrival of the Brazilian special envoy, and then again on some other miserable pretext, I determined to stand it no longer. So I wrote to him a letter reciting his evasions, quibbles, and general bad faith, and concluded by making a protest not only against my detention, but against the disingenuous, tricky way in which it had been effected. I sent this letter of a Sunday morning and the next Wednesday at noon I received dispatch No. 43 from Mr. Seward, (a copy of which was sent to you,) in which I was instructed if, after proper and respectful application, I was still refused the facilities for passing through to Paraguay, I was to apply to the admiral for a war vessel and the necessary convoy to take me to my post. The same day, at 4 p. m., I received President Mitre's reply to my protest, the same which you stigmatized in your letter of August 21, to Senhor Andrada, as "more remarkable for its special pleading than for its friendly or logical conclusions." You will recollect that President Mitre in this letter to me, after his labored "special pleading," in which he lays great stress on the fact that Admiral Godon had distinctly admitted that the allies had a perfect right to stop my passage, concludes by saying that the correspondence on his part must there close. Now under those circumstances what was I to do? Had I desired notoriety or sought to aggravate the case in which they had got themselves involved by their own folly and with the approval of our admiral, I should have written him again the next day, telling him that if he did not back directly out of his position and send me through without any more hesitation or delay, I was authorized to force his blockade with the whole American squadron, if necessary, and should certainly do it; he must and would have answered that he was not to be bullied in that way. My idea was that it was not best to renew my demand till the gunboat was ready, and then they would see that if they still persisted it was and must be war. By so doing I gave them a chance to retreat and thus saved our government from the necessity of a serious difficulty. I had every personal motive to follow the other course. I had been treated with great discourtesy by Minister Octaviano, and subjected to infinite annoyance and disrespect by President Mitre, but I knew it was not the interest or desire of our government to become a party to this war, and so that the national dignity were vindicated, as it would be by my going through on one of our own war vessels, I knew it was my duty to smother all feelings of personal wrong or private resentment. And yet you tell me that in doing so I was "consulting my own (your) feelings instead of my (your) duty."

I therefore returned to Buenos Ayres, and on my arrival there I found that the substance of my instructions had already been published some days before in the newspapers. How the information was obtained I know not. There were but three persons who could have had it direct from our government, you, Admiral Godon, and myself, and it was a physical impossibility that it should have come from me. And these instructions were as much confidential as those that came afterwards, and which you say in your postscript were a "state secret." The responsibility for that publication must, therefore, rest with you or the admiral.

But on what authority do you say that either of those dispatches was a "state secret?" Nothing of that kind appears on the face of either one of them. Neither of them is marked confidential, and I have no reason to suppose that the Secretary of State desired the matter to be kept secret or regarded as confidential. On the contrary, I know he did not; for in his dispatch to you, No. 180, dated September 23, 1866, he says that, "although you have marked one of your dispatches touching on the subject of my detention 'confidential,' you will please inform the government of his Majesty that I (Mr. Seward) am not able to allow it to maintain that character."

The first instructions from our government, directing that in a given contingency the blockade should be forced, having thus been made public, I knew of no reason for keeping silent in regard to those subsequently received, in which we were all ordered to return to the United States in the event that all opposition to my passage was not promptly withdrawn. You speak, however, of the great astonishment and indignation of the Brazilian government that the public should learn through the Argentine press that they had been "bullied." But they were bullied, as you know, and I know, and everybody knows. They never yielded gracefully, or admitted they were wrong. On the contrary, they insisted all through that they were right, and the last thing they did was to protest. Are they ostriches to stick their heads in the sand and then think they cannot be seen? If not, what do they complain of? You wrote me in a former letter that when the French admiral complained of favoritism, the reply was: "There was no favoritism in what we did; the knife was held at our throat and we yielded to compulsion." And yet they want people to think they did not yield to force—they were not bullied! Undoubtedly they were greatly mortified at the absurd and ridiculous figure they had made throughout the whole transaction. And so they ought to be made to feel; and they certainly had no reason to expect that I would put myself out to spare their tender sensibilities. Had not I at the commencement of the war delayed my

return to the United States for nearly two months, in order that their minister, Viana de Lima, might have safe and comfortable egress from the country? Did I not have a sharp and prolonged correspondence in his behalf, telling President Lopez to his face if he did not allow him (Viano de Lima) to leave, I should demand my own passports? Of what I did then you and the Brazilian government are already informed; but you may now know that Lopez has never forgiven me yet for the part I then took. And what return have they made me? Certainly you must admit it has not been such as to entitle them to any particular gratitude or consideration from me.

The chief count in your indictment, however, seems to be that after I had or should have received your note of August 22, telling me that the Brazilian government had issued instructions to its representatives in the river Plate, withdrawing all obstructions to my passage, I wrote to Admiral Godon saying that no proceeding to cause such hindrance to cease has yet been made by the allies. That statement, made at the time on belief, is now re-asserted on absolute knowledge. That the Brazilian government promised you that they would have all obstructions withdrawn, of course I could never doubt for a moment. But with all deference, I must be permitted to believe that I knew the people I had to deal with as well as you did; I knew they did not mean that I should pass if anything short of war with the United States could prevent it. I knew they had not kept faith with me in any respect from the start. When I first arrived at Buenos Ayres, Octaviano supposing that I should otherwise go up on an American gunboat, to which the allies were adverse, offered to send me up on a Brazilian steamer. I declined the offer for many reasons, saying that it would be better for me to go on an American war vessel. But when Admiral Godon reached Buenos Ayres, and I found that he would not send me through as he had promised while at Rio, I wrote a note to Octaviano, intimating that I would accept his previous offer. He did not condescend to answer the letter. He had found Admiral Godon was "all right," and what did he then care for a helpless minister resident, repudiated by his admiral, and who could not hear from his government till, in all probability, the war should be over.

After this I went twice to Corrientes. With what result I have already informed you. Rebuffed and repulsed on all sides, I reached Buenos Ayres on the 7th of August. And now you will probably say that I should have then again applied to the Argentine minister for foreign relations, and not have written to the admiral for a vessel from the squadron till I had received a negative reply. I had no doubt then, and have none now, that if I had so applied to Elizalde he would have given me just as good a letter to Mitre as he had done six months before, and that if I had taken it and returned to headquarters with it, it could have been treated with precisely the same respect. The idea of a minister of a government at least respectable being batted about like a shuttlecock, begging and supplicating for his clearest rights, was too much for me, and I was determined that if I returned again it would be in a way that my official character should be respected.

I therefore wrote to the admiral for a vessel of war, and after waiting till near the end of September I got an answer declining to furnish it. What then was I to do? Should I return to the blockading squadron and ask to be passed through. Though I had your letter in which you had stated that orders had been given for the obstructions to be withdrawn, I then thought and now know that Tamandaré would not have allowed me to pass the blockade. In this embarrassing position I thought it was my duty, before forcing things to a crisis, to await the arrival of General Asboth. Had I left for the United States before his arrival, as I would have been perfectly justified in doing, he would have been even in a worse position than I had been. Fortunately he came before I had left or had given the allies a chance to refuse me again, and the same steamer that brought him brought the orders from the admiral to Captain Crosby to take me to Paraguay on the Shamokin.

As soon as the vessel was ready for the trip I embarked with my family, and great was my surprise when we reached the Tres Bocas and came to anchor just below the squadron, to be told by the Brazilian officer commanding the lowest gunboat of the blockading fleet, and who immediately came on board the Shamokin, that we could go no higher; that the orders were imperative to stop any and everybody, and no counter-instructions had been received. Captain Crosby replied that his orders were to go through to Asuncion, and he wished to send a letter to Admiral Tamandaré advising him of the fact. The commander offered a steamer to take an officer from the Shamokin with the letter, and the same evening they started for the flag-ship. The admiral took the letter and replied it was impossible for the Shamokin to pass, or anybody on board of her. The orders from his government were to stop absolutely and entirely all communication with Paraguay, and he had no counter-orders, and had never had a word from the Brazilian government either in regard to the passage of the Shamokin or myself. He said, however, he would come and visit me the next morning on board the Shamokin. With this report the officer, Lieutenant Pendleton, came back, and arrived on board about 3 o'clock in the morning. Now then a collision seemed imminent. Captain Crosby had peremptory orders to go through, and Admiral Tamandaré had as imperative orders to stop him. Evidently somebody must give way or there

would be a fight. The Shamokin was ready for the latter alternative, and we awaited the coming of the admiral to see if the brave words would be followed by corresponding actions.

At about 11 a. m. he came on board, and his story was the same that he had told Lieutenant Pendleton. He had received no orders in regard to my passage, or that of the steamer. The only information he had received on the subject was contained in the copies of your letter to me of August 22d, and of a letter from Admiral Godon either to Crosby or myself, stating that the Brazilian government had promised that all obstructions to my passage should be withdrawn. But not a word of advice or instruction had he received from his own government. And this, you will recollect, was in November, four months at least after the Brazilian government had begged Admiral Godon not to send his orders for a gunboat to go up the river until they could have time to send forward their instructions in advance to their subordinates in the Plate; advising them of the withdrawal of all opposition to my passage. And Admiral Godon, you will recollect, was so anxious to favor them in that respect that he took a cruise to the northward, so that no letter from me asking for a vessel could soon reach him. And yet, after all this, after they had assured you so explicitly that all obstructions were withdrawn; after having bamboozled Admiral Godon, or arranged with him in an interview "entirely private and confidential" to violate the spirit of his instructions by procrastinating and going off in the opposite direction, Admiral Tamandaré said that not a word or hint or line had ever been communicated to him on the subject. This statement may perhaps convince you that by pursuing the course I did, I achieved the object of our government; I reached my destination, I vindicated my right to pass the military lines, I put the allies in the wrong, and compelled them to concede a right which they at first refused; I showed them that the American flag must be respected, and that if they ventured to infringe on the rights of an American minister they must eat humble pie afterwards; and all this I did without involving our government in any more serious question with the allied powers than that of the personal damages I have suffered, and the indemnification to which I am entitled. The domestic question between the admiral and myself must be decided by the proper tribunal, as provided for by the laws of the United States. But that can in no way affect our foreign relations, unless the Brazilian government should take it as an affront that an American admiral, who has served them so faithfully and "confidentially," should be put upon his trial.

You appear to think it very strange that after receiving your letter of the 22d of August, (which I acknowledge I did receive in due course of mail,) I should write to the admiral that no proceedings had been taken by the allies to cause the hinderance to my passage to cease. I attached no value to that promise on the part of the Brazilian government, and subsequent events showed I was right in that. Stronger and more definite promises had been made to me before by the allies, and were broken without scruple. Besides, I had written to Admiral Godon for a vessel before the receipt of that letter from you, and at the time I was not aware that the Brazilian government had even made you a promise to withdraw their obstructions. My second letter to the admiral, which you have undertaken to answer for him, written after the receipt of that letter from you, was not written, as I then said, with any view to influence his action, but to show that I had done all that, under the circumstances, I could do to effect my passage without the aid of a national war vessel, and to remind him that it would be just as well if he would confine himself to his own legitimate duties, and not interfere in questions that do not concern him, and of the merits of which he is as ignorant as he is of social courtesies. My letter asking for the gunboat was written on the 8th of August, 12 days before yours, and before I received the subsequent instructions, directing me in a certain contingency to return to the United States; and yet you express wonder that I could have remained in the river Plate or have asked of Admiral Godon for a vessel of war or a portion of the squadron to convey me to Asuncion. I never did anything of the kind after receiving the dispatch directing me under given circumstances to return to the United States. Those circumstances were such that had they occurred, I should have been obliged to return home, and the same circumstances that would have required me to return would have required you and General Asboth to do the same, and though we should all have acted independently, yet the same offensive course persisted in by the allies would have required us all to do the same thing—that is to return to the United States; so that though acting separately our action would have been concurrent. But you say in no possible event were your movements made dependent on mine. Now suppose that when I arrived at the Tres Bocas and Admiral Tamandaré came on board the Shamokin and told us we could not go through, that his orders were to stop us, and then supposing I had replied that I would not force the blockade but return to Buenos Ayres, and had actually done so, and thence gone to the United States, what then would you have done? Would you have obeyed instructions framed for a contingency much less provoking and insulting than that? Would you have demanded your passports, or would you have asked for further explanations?

It is to be regretted that a man of your large experience and high position should take

it upon himself to advocate so bad a cause as that of the admiral. And that such attempt to justify and screen him at my expense, and to my detriment, should proceed from one who has long professed the warmest friendship for me, is not only cause for regret but of surprise. He has been the cause of all this trouble. Had he acted with that alacrity that becomes a naval commander, he would have sent a gunboat up the river immediately on my arrival, when there would have been no obstacle in the way, and the vessel could have come up and returned in two weeks, and there an end of the matter. But if he did not feel authorized to do that without orders from the Navy Department, he should have told me so while at Rio in October, 1865; then I could have written from there and the necessary instructions would have reached Buenos Ayres by the middle of January; and it was not till then that he said he would not send a steamer. I could not then think of waiting four or five months longer for instructions to come out, without, in the meanwhile, making an effort to reach my post in any way that might offer. The result of those efforts you are already informed of. But the whole difficulty was caused by the strange conduct of the admiral. And having, through his conceit or bad temper, or stupidity, got himself into an awkward position, I do not blame him for enlisting your able pen to extricate him. My only surprise is that you should employ it in so bad a cause and for so bad a man. I presume, however, that finding himself at odds with everybody else holding official position (of course I except the Brazilians) on the coast, he has been extremely bland and sweet and deferential towards you. When in Buenos Ayres fifteen months ago, he seemed to take great delight in boasting of his contempt for the ministers of his government and his complete independence of them. His language in that respect was very offensive, and after, in the presence of my wife. But I had made up my mind that to keep my vantage ground I must keep my temper, and I suffered his tedious garrulity *ad nauseam*, even to the extent that he admitted to Mr. Kirk that he could not but admire the courteous and candid manner in which I bore myself under circumstances that he knew were very trying. But nobody accused him either of courtesies, deportment, or of a civil tongue. On the contrary, had he tried to secure the ill-will and contempt of every American in the river Plate he could not have done it more effectually. The officers of the squadron generally regard him as the very incarnation of spiteful tyranny, and he has made it his particular business since we came up here to persecute those officers who were on intimate and friendly terms with us. Mr. Kirk regarded him as an intolerable nuisance, and I judge from the last letter of General Asboth that in that respect he fully coincides with his predecessor. When the Wasp was coming up to bring my dispatches, General Asboth thought he could by a personal interview with me and the opposing commanders learn much of the actual situation of the respective belligerents and could more intelligibly advise our government in regard to it, besides being better prepared to carry out the instructions he had already received or might receive afterwards. But the admiral said that though the steamer was going, the minister could not go on her. I had heard beforehand, however, that he was not to come; for when I was in the camp of the Marquis de Caxias, he read me part of a letter, apparently official, in which they (the authors of letter) said that General Asboth had intended to come up to Paraguay to confer with me, but that *they had made a confidential arrangement with Admiral Godon so that though a steamer would come to bring my dispatches the minister was not to come in it.* Will you please tell me what you think of that proceeding on the part of the admiral? In my opinion it is scandalous, and I should be false to my duty did I not report this strange conduct and demand an investigation by a competent tribunal. How the Navy Department may regard his proceedings I do not know, but I hardly think it will sustain him in his *confidential* interviews and arrangements with the allies to defeat the policy of the State Department. At any rate I shall do what I can to give the whole subject a thorough ventilation, and have arranged my plans so that at the meeting of the next Congress, or soon after, I can be on the ground to give the affair my personal attention.

Your long letter of the 21st of October, to which this is an answer, was not written till you thought the Brazilians had withdrawn all obstructions to my passage, and all difficulties and questions in regard to it had been arranged. You could, therefore, have no other object in writing that letter than to reprimand me, and to prejudice me with the Secretary of State. If you think that you have succeeded in the latter respect, you are welcome to all the consolation to be derived from such belief. But as I do not admit you had any right whatever to arraign me, or pass judgment on my official acts, I must beg of you before you attempt that role again, to show under what authority you act. I repudiate all interference in my official duties that does not proceed from the State Department, and will not permit it. I have written this reply to your charges as I would have written to any private individual who might accuse me to the Secretary of State, and send me a copy of his indictment. The Secretary has sent me copies of your correspondence with the Brazilian government in relation to my detention, in order that I might be enabled to complete the record. As a copy of your letter to me was doubtless sent to the department, I shall also send a copy of this. I only desire that the record be made complete, and then I shall invite a searching scrutiny of the whole case.

You will, I trust, be kind enough to excuse the long delay that has occurred since the

date of your letter and this answer to it, as more than five months passed after the date of yours before it was received by me. I shall send this by the first opportunity that occurs for sending through the military lines, which may be within a week, and may not be within two months.

And now, again repeating the request that you will show me the law or the authority under which you act, before you again take upon yourself the office of instructor or censor of other ministers,

I have the honor to be, sir, your most obedient servant,

CHARLES A. WASHBURN.

His excellency JAMES WATSON WEBB,

Envoy Extraordinary and Minister Plenipotentiary, Rio de Janeiro.

LEGATION OF THE UNITED STATES,

Petropolis, June 10, 1867.

SIR: I have the honor to inclose a copy of a communication addressed by me to Mr. Washburn, in answer to his letter, of which he forwarded a copy to the department by the last steamer.

Mr. Washburn charges that I wrote my letter to him in defense of Admiral Godon. This is not only a gratuitous, but a most unjust accusation. While I have taken no part in the controversy between Admiral Godon and Mr. Washburn, and have not permitted myself to express an opinion to either of them in approval or disapproval of their proceedings, I have a very clear conviction, that if the admiral had been so disposed, he could have sent Mr. Washburn to his post of duty shortly after his arrival in the river, without any interference on the part of the allies. But it appears that the admiral made it a matter of pride to ignore the rights and privileges of ministers and consuls, and has quarreled with nearly all of them except myself; that is to say, with Ministers Kirk, Washburn, and Asboth, and with Consul Munroe, and one or two others; and I am sorry to add, that he has no friends among the officers of the squadron. With me, he has never had one word of difference, but it is impossible to shut my eyes to the fact that the difficulties which have taken place and now exist on this coast, between the admiral and the officers of the Department of State, and which are widely known, and discreditable to our country, are mainly attributable to the admiral's *meddling* with what does not concern him. His own statement to me in regard to his difference with Mr. Asboth is an illustration of his mistaken conception of his rights and duties. In reply to my question, why he did not permit General Asboth to go up the river in the United States vessel which took up letters and dispatches to Mr. Washburn, his answer was, that Mr. Asboth had no right to leave his legation without the assent of the State Department. I said that was true; but the minister was the only person to judge of his responsibility in so doing. He replied, "No, it was my right to demand of him whether he had authority from the State Department to leave; and because he did not produce such authority, I would not permit him to go up in the steamer to have an interview with Washburn, which was quite unnecessary."

I told the admiral that he entirely misapprehended his relations with Mr. Asboth, and that when he assumed the right to question the propriety of the minister's conduct, his, Mr. Asboth's reply, should have been, that he was meddling with what did not concern him, and that he, the minister, should have insisted upon his right to pass up the river in the national vessel, then about to go up with dispatches; the propriety of his doing so, and of his absenting himself from his legation, being questions between him and the Department of State, with which the admiral could not interfere.

Then again, in the admiral's quarrel with Consul Munroe and his contemptuous treatment of him, he is altogether in the wrong; and in my judgment, without any excuse whatever. Mr. Munroe is a model of a Christian gentleman; intelligent, courteous, kind-hearted, hospitable, and patriotic; in truth, the most accomplished consul I have ever known, and one who has never given offense to any man in Brazil. Nobody but the admiral has ever found fault with him; and the fact that he quarreled with him immediately on his arrival, goes far to prove to me that the admiral's difficulties are the consequences of his infirmities of temper, and an arrogance, offensive alike to all with whom he comes in contact.

Very respectfully, your obedient servant,

J. WATSON WEBB.

HON. WILLIAM H. SEWARD,

Secretary of State.

Testimony of Porter C. Bliss.

WASHINGTON, D. C., April 22, 1869.

PORTER C. BLISS sworn and examined.

By Mr. ORTH:

Question. State your age and place of nativity.—Answer. I am 30 years of age and was born in the county of Erie, New York State.

Q. Are you still an American citizen?—A. I am.

Q. You have never in any way forfeited your right of citizenship?—A. No, sir.

Q. Have you ever been in South America?—A. Yes, sir.

Q. At what time and under what circumstances did you go there?—A. I went to South America as private secretary of General James Watson Webb, minister to Brazil. I left the United States in the month of July, 1861, and went by way of England; I embarked from Southampton on the 9th of September, and arrived at Rio the 4th of October, 1861. At the same time Mr. Washburn was a fellow-passenger upon his voyage to Paraguay. I remained in Brazil nearly a year and a half, until the last month of the year 1862. The date of my arrival at Buenos Ayres was the 31st of December, 1862. I proceeded from Rio to Buenos Ayres, along with General Webb, on board the United States corvette Jamestown, Captain Price, then bound to China, with the intention of traveling in the Argentine Republic, and collecting information which might be useful in a literary point of view, more especially with the object of visiting the Indian tribes in that country and collecting information in regard to them.

Q. Did you visit Paraguay?—A. I have been in Paraguay twice; the first time I reached there on the 1st of March, 1863, being then in the employ of the Argentine government as special commissioner, to visit the Indian tribes of the Argentine Republic. I obtained that employment through the influence of Edward A. Hopkins, formerly United States consul at Asuncion, and also, as I have since been given to understand, through the influence of General Webb.

Q. Have you ever paid any attention to the history and manners and customs of the Indian tribes?—A. Yes; I have been a good many months among the Indians of the Argentine Republic, and also to a certain extent among those in the republic of Paraguay. I did not spend any time among them prior to my appointment. I was appointed on the strength of having passed much of my life among the Indians in this country, and of having been employed in the Indian department here in Washington, being familiar with the manner in which our Indian bureau is conducted. Immediately upon arriving in Buenos Ayres, I made application to the officer—called there the minister of the interior—corresponding to our Secretary of the Interior, who soon manifested great interest in the matter. As I understand, he had an interview with General Webb upon the subject, and also derived much information from Mr. Edward A. Hopkins. It was through these means that I was appointed in about a month from the time of my arrival at Buenos Ayres to accompany an expedition up the river Vermejo, which rises in Bolivia. We proceeded up to the head of navigation of that river in Bolivia, and in the course of that voyage I made my first visit to Paraguay, having been obliged to go to Asuncion for repairs to the engine of our steamer. I remained in Paraguay forty days on that visit, most of the time at the residence of Mr. Washburn as an old acquaintance. I first became acquainted with him shortly after the 9th of September, 1861, he being a passenger on the steamer Tyne on his way to Paraguay. I have been acquainted with him ever since. We exchanged letters while I was in Brazil and he in Paraguay.

Q. You will now proceed, in narrative form, to state what duties you performed under this appointment by the Argentine government.—A. I received no special instructions from the Argentine government, as my appointment was of my own initiation. I was left to adopt such a plan as I desired, and accompanied this expedition for the purpose of obtaining information concerning the character, languages, wants, manners, customs, habits and mode of life of the Indians in the country through which the expedition would pass. I desired to learn their disposition towards the white population, and whether anything could be done towards civilizing them and settling them in colonies with a view to the ultimate settlement of this region by the Argentine government. I desired more especially, for my own behoof, to investigate the language of the different tribes with a view of classifying them, and ascertaining their relations and divisions into tribes and nations. The Argentine government allowed me to take my own course and manner in carrying out this purpose. In the exercise of the discretionary power vested in me, I visited the Indians inhabiting the principal points on the banks of the Vermejo river, including more than thirty different bands, and collecting much valuable information. I made a report to the minister of the interior on my return, which was published in Spanish by the government, and has since been translated into various languages, and published in English and in French both in South America and in Europe.

Q. What compensation did you receive for your services on this occasion?—A. I received 6,000 paper dollars of the Argentine government; the paper dollar of that

republic has recently been fixed at four cents in value; at that time it was worth a little less.

Q. Could you have had more if you had desired?—A. I had not made any definite contract. My expenses on board the steamer were defrayed, it being an Argentine steamer. My connection with the Argentine government continued for eight months. My next step was to engage in some miscellaneous employments of no importance, continuing two or three months. About the beginning of the next year, 1864, I engaged in editing a historical magazine at Buenos Ayres, entitled *The River Plate Magazine*; it had two editors, of whom I was one; it was a review, consisting of 64 pages, monthly, principally devoted to the history and geography of the Argentine Republic. I continued to edit that magazine until the end of the year 1864. The reason for my remaining in Buenos Ayres during that time was that most of my effects had remained on board the steamer in which I had made the expedition to Bolivia. The steamer was grounded at the head of navigation, and could not get down until the next freshet, remaining there a good many months; otherwise I should have immediately returned to the United States. But being obliged to wait so long I engaged in editing this magazine, which continued to the end of the year 1864. Shortly before this time I had received my effects from the steamer, and then proposed returning to the United States. I had collected information which I considered of a good deal of value concerning the Argentine and Oriental, or Uruguayan Republics, as well as concerning Brazil, and I proposed writing a work upon the history of these countries, including, perhaps, the narratives of my own personal experience. The republic of Paraguay being the one I knew least of, having been there but a few weeks, I desired to spend two or three months there before returning to the United States, in order to make further investigation in regard to the history and characteristics of the country, and also to visit the Indians of that republic, and in that manner to complete the information I needed to enable me to prepare the work upon these countries which I had in view. For that purpose I embarked for Paraguay the 1st day of January, in the year 1865, with the intention of remaining there, at most, not more than three months. I arrived at Asuncion, the capital of Paraguay, on the 21st of January, 1865. I had supposed I should find there Mr. Washburn, the American minister. Although my visit had no special connection with his being there, yet he being an old friend, it would have been very pleasant for me to have found him there. I found, however, that he had left a week before my arrival, passing me on his way down the river while I was at Corrientes. I arrived, as I have stated, on the 21st of January, and immediately commenced the investigation of the Guarani language, which is the language of the country; it is an Indian tongue, but is spoken by the Paraguayans. One special object of my investigation was to make a classification of the Indian tribes of that region, as indicated by the languages or dialects spoken by them. My first inquiries, therefore, were directed to learning the Guarani language, and also the *Payguá* dialect, for the purpose of visiting the Paraguayan Indians residing in the neighborhood. At this time the republic of Paraguay was engaged in war with Brazil. The war had been commenced during the previous autumn, and several months before my going there. Paraguay was then just on the eve of commencing war also with the Argentine Republic. This was a fact of which I had not the slightest suspicion at the time I left Buenos Ayres, and there was no reason whatever on the part of the Argentine Republic for anticipating any such war; it had given no cause of complaint whatever to the Paraguayan government, and the commencement of that war was a piratical act on the part of President Lopez. Immediately after my arrival in Paraguay I found I was the object of suspicion on the part of the Paraguayan government. That government could not understand how any person could come to Paraguay, especially at such a time, when the atmosphere was so thick with war rumors, purely for scientific and ethnological objects; and a great many rumors had consequently been set afloat in regard to the object of my visit. The fact that I had been employed by the Argentine government, and had formerly been in Brazil as the private secretary of the American minister to that government—a fact which I took no pains to conceal, as I had no reason whatever for concealing it—gave directions to the rumors and suspicions in regard to me. It was very soon known to the Paraguayan government that I had been in Brazil as a member of the American legation; that I had been in the employ of the Argentine government, and that I was acquainted with many of the prominent politicians as well in Brazil as in the Argentine and Uruguayan republics. And it was suspected that I had come to Paraguay as a spy, or as a secret agent of one or all of these governments. Some said I was a Brazilian spy, others that I was an Argentine spy. Whatever they thought, the government soon set spies on my track to watch all my actions. Wherever I went I was followed by several spies, the effect of which was that many persons who, on my arrival in the country, had received me with pleasure as a visitor, found it convenient not to cultivate my acquaintance further. My position began to be disagreeable just at the time when the Paraguayan dictator, Lopez, suddenly brought together a so-called Congress, and declared war upon the Argentine Republic, without any just cause or pretext, and refused to allow any foreigners to leave the country. This was about

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the middle of March. I had been there then less than two months when this event took place.

By Mr. SWANN :

Q. Had you been connected at any time with a political paper while in the Argentine Republic ?—A. I had not. The review which I conducted in Buenos Ayres was a purely historical and literary enterprise. Beyond an occasional article in a neutral English paper, the *Standard*, I had not written anything relating to the politics of the times, or in relation to the war which had then begun between Paraguay and Brazil, except in making up a monthly summary of the current events, and in that I had expressed opinions which were not very flattering to the Brazilian government nor very flattering to the Paraguayan government either, but I wrote merely as an impartial spectator.

By Mr. ORTH :

Q. Did I understand you to say that you were in the employment of the Paraguayan government at any time ?—A. I subsequently was after the course taken by President Lopez towards me, of which I have spoken, and which rendered my stay in Paraguay very unpleasant. In pursuance of my object of collecting information about that country, its present condition, its tribes of Indians, &c., I found it necessary to have some intercourse with members of the government. Very shortly after my arrival, I made the acquaintance of the minister of foreign relations, a gentleman by the name of José Berges; I brought no letter of introduction to him nor to any one else, but I found it easy to make his acquaintance. I requested him to afford me what assistance on the part of the government he could in pursuance of my object, and continued to see him occasionally in an informal manner for some time. This was during the time I was under this suspicion and surveillance, a matter which I never brought to his notice, because I did not wish to have anything to say on that subject. When I found that my stay in Paraguay was the reason of suspicion on the part of the government, in connection with the fact that no American minister was there, and that Lopez was in the habit of treating foreigners as he pleased in regard to allowing them to leave the country, it became necessary to take some measures for my own protection. Lopez never had allowed any obnoxious person to leave the country even *before* the war. If he had any reason or inclination to prevent it, he always found a pretext for whatever he did, but his own will was the moving cause. In respect to myself, I was convinced that Lopez would not allow me to leave the country unless I could conciliate him in some manner, and render my presence there less suspicious to him. I was desirous of leaving the country as soon as possible, and it became my purpose from that time to do so as soon as I could. I had taken previously much pains to become acquainted with the early history of both the Paraguayan and Argentine republics. During the previous year I had written a good deal on the subject. It was supposed then that the war with Brazil would come to an end speedily, the object on the part of Brazil being merely to reduce Paraguay to certain boundaries about which there was a dispute.

Q. Were there any police regulations in Paraguay in reference to foreigners coming and residing there ?—A. I was obliged to report to the chief of police on my arrival there, and passports to leave the country had to be obtained from the police office, although in fact no passports were given except by the direct order of Lopez, who gave or withheld them according to his own pleasure. He had previously been in the habit of sending people arbitrarily out of the country without any cause, or of detaining them there against their will in an equally arbitrary manner. There was a treaty in existence between Paraguay and the United States, by which all American citizens were guaranteed the right of leaving the country at any time; but, as I have said, no American minister was there, and no consul present for my protection, and Lopez not being in the habit of obeying the stipulations of treaties except so far as he chose to do so, there was no prospect whatever, so long as he regarded me with suspicion, that he would allow me to leave.

I commenced saying that at that time it was supposed that the war then in existence between Paraguay and Brazil would speedily come to a termination, as the principal question at issue to be determined was that of the boundary between the two countries. It was a question in dispute when these countries were colonies of the Portuguese and Spanish governments; was in dispute when those governments relinquished their claim to these countries, and had never been settled since. I was very familiar with the disputes on this subject that had occurred between the Spanish and Portuguese governments, a hundred years or more previous, and I thought I would write a little pamphlet which would occupy a month or two, during which time I might prosecute other inquiries which were to me of more importance. I thought this occupation, without connecting me directly with the government in any way, would make me of some use to Lopez, and would serve to set me right in my relations with him. I engaged then with the minister of foreign affairs of Paraguay to write a pamphlet upon the boundaries between Paraguay and Brazil, under the supposition that it would probably have a good effect when the war was over and the settlement came to be made. I therefore immediately set to work

to write that pamphlet, and was engaged upon it when I was surprised by the sudden declaration of war upon the Argentine government, followed by an embargo put upon all foreigners. This did not relate to me particularly, but to all foreigners then residing in Paraguay, prohibiting them from leaving that country. From the middle of March onward nobody was allowed to leave the country, and the same continued to be the case during the entire war; although foreigners might have availed themselves of the route through Bolivia which was still left open; the order of President Lopez, however, was that no foreign subject should leave the country.

In the month of May, finding that I would have to remain in the country for the present, and my stock of funds being exhausted, the enterprise which I had first proposed to the government having become one of no particular consequence, the usefulness of which would have to be postponed for an indefinite period of time, I saw Marshal Lopez (he then having received the title of marshal in addition to that of president of the republic) and stated that as I had no funds, and no other means of support in Paraguay, I had desired to leave before that time, but finding myself unable to do so, I proposed to write the history of the republic of Paraguay, commencing with the beginning of the settlement of that country, and continuing down to a period not definitely fixed upon, but within the present century. President Lopez approved of that position and accepted it verbally, but no formal contract was ever made out and signed; it was agreed verbally that I was to receive six gold ounces per month, that is to say \$96 in gold, during the time I was engaged upon this literary work. In addition to this, I was to receive a further and larger compensation when the work should be completed, and another allowance for the purpose of publishing the work simultaneously in French and English in Europe. That is to say, I was to receive \$96 in gold monthly, *for my support*, not to be considered in the nature of *compensation*, and I was to receive a larger allowance at the completion of the work, which depended on the satisfaction which the results of my labor might give. There was no stipulated sum mentioned, but it was understood that it would amount to several thousand dollars, not including the further allowance which I have mentioned to defray the expense of translating and printing the work in French and English. This was in the month of May, 1865. My residence from first to last while in Paraguay was at Asuncion.

Q. State what progress you made with the work, and what facilities were afforded you by the government.—A. I made my proposition to the government, expecting to find material to a certain extent for my work among their archives. I had already in my possession a good many materials. I had already consulted several authorities on the subject and was pretty well prepared to begin the works, having written somewhat upon the subject of the early history of Paraguay for the magazine I had edited before my visit to Paraguay. I expected the minister of foreign affairs would afford me the means of consulting different works I might need, and I therefore applied to be allowed to consult the archives of the government, where there would be found a great many manuscripts useful for my purposes. The minister of foreign affairs gave a conditional assent to my request, and I was allowed to consult a few documents under the eye of the person who was their keeper, and who allowed me to do it with a great deal of jealousy. I was permitted to have access to but very few documents in the public archives, and these not of the character I desired to examine. In point of fact the documents I was allowed to see in the archives were of very little use to me, and though I made repeated efforts to obtain a free range through the archives for this purpose it was never conceded to me. There was always a manifest distrust on the part of Lopez, whose system of espionage was habitual, not only in regard to foreigners, but applied even to officers of his own government; in fact every officer was supposed to be a spy upon every other.

By Mr. SWANN:

Q. How long had this embargo been in operation before you made your arrangements to write the work you have mentioned?—A. The embargo upon foreigners went into operation the middle of March, and I made my arrangements with President Lopez for writing this work in the early days of the month of May. I continued upon that work, I can scarcely say for how long; my contract, which was a verbal one, was never carried into effect on the part of the government. I never received a single month's pay as stipulated in the contract. When I had commenced my work and made some progress in it, I visited the minister and told him I wished to draw some pay, as more than a month had elapsed since the arrangement made with Lopez went into operation; I requested him to make out an order for the amount due me. He represented himself as too busy at that time to attend to it; he wanted to look further into the matter, but said he would give me an order for my immediate expenses without reference to the contract; he did give me an order for that purpose, I think, in the month of June. The amount I received, as nearly as I recollect, on that occasion was \$300 in Paraguayan currency. The value of the Paraguayan dollar fluctuated during the war; at that time it was depreciated about one-half from the value of gold, as I remember.

Q. Did they examine your manuscripts during the progress of your work?—A. They did; every month I submitted the manuscripts as far as I had progressed.

Q. Did Lopez treat you at this time with apparent kindness?—A. The minister of foreign affairs, to whom I have referred, was the person with whom I communicated the most of the time. I never had more than two or three interviews with Lopez. Very shortly after my last interview with him he left his capital and put himself *in campaign*, as the expression was; that is to say, he took command of his army personally. On the 8th of June he left his capital to take command of the Paraguayan armies against the three allied powers; the alliance having been made on the 1st day of May. Since that time I have never seen Lopez; my intercourse with him was carried on entirely through his minister of foreign affairs.

I ought to have said previously that that embargo put upon foreigners against leaving the country applied, nominally, only to routes through the countries then at war with Paraguay, and I conceived a desire to leave the country through Bolivia. By virtue of treaty stipulations with the United States it was guaranteed that American citizens should always have the right to leave the country, making no exception in case of war; and as there was a route open through Bolivia I wished to leave that way. This was after the time I had commenced writing the pamphlet; I was still enduring the annoyance of the system of espionage under which I had been suffering for some time. But I had come to receive more consideration on the part of the government and supposed myself to be on better terms with it. This was before making my terms with President Lopez about writing the history of the republic. I then made application through the minister of foreign affairs to leave the country by way of Bolivia, promising, in case I was allowed to do so, that I would, when in Bolivia, use my influence by writing some articles for the papers of that country in favor of the cause of Paraguay or against Brazil. At that time I made no statement in respect to the other two powers. I considered the war at that time solely as regarded Brazil, and my opinion then was, that in so far as the question of limits was concerned, the Paraguayan government was in the right. I considered that Brazil had always been in the habit of grasping unjustly at the boundaries or limits of the republics around her, not only in respect to Paraguay, but in respect to all the other countries on which she bordered—the Argentine Republic, Uruguay, Bolivia, Peru, Ecuador, Columbia, Venezuela, and the three provinces of English, French, and Dutch Guiana. Except in certain cases in which these boundaries have been very recently settled, there is no man living who can tell to-day what are the limits of Brazil with any of the surrounding countries; I mean to say, unless some definite treaties have been negotiated since the time I went to Paraguay, of which I am not cognizant. Brazil has always played the part of *dog in the manger*; has always exercised a grasping spirit in respect to these countries; and I considered, so far as the question of limits was concerned, Paraguay was in the right; and that Bolivia being from time to time in difficulty with Brazil upon the same question of limits, might be expected to sympathize with Paraguay in this struggle so far as that question extended. I cared nothing about the issues between Paraguay and other nations beyond my desire of getting away; but I made the proposition to Lopez in good faith, and would have carried it out in good faith, if he had agreed to the proposition I made; that is, I would have endeavored to exert an influence while in Bolivia, through the press and otherwise, upon public opinion there as against Brazil in respect to her grasping disposition towards the surrounding countries. This proposition was favorably received by the minister of foreign affairs, and he reported upon it favorably to Lopez, but it did not receive the assent of Lopez. I saw Lopez in person after this, but knowing it to be useless to attempt to get out of the country, I proposed to occupy myself during my involuntary stay in writing the ancient history of Paraguay, as before stated.

Q. How long did you continue engaged upon that history?—A. I cannot exactly state, for the reason that my contract was not complied with on the part of Lopez. I never received a single monthly payment, although I repeatedly requested to have my verbal contract complied with; but I was always met by some excuse or delay; in point of fact the minister of foreign affairs kept the matter in his own hands by telling me he would furnish me with the money I needed as fast as I required, and for about a year I *did* receive the money I actually needed for my own personal expenses. I think I received four payments in all, amounting to a thousand dollars in the currency of the country; the value of the paper dollar constantly varying, and continually becoming more depreciated, so that the average value of the money I received was considerably less than half its nominal value in gold. I therefore reply specifically to your question that I supposed myself to be in the employ of Lopez for a little more than a year; but at last Lopez, apparently dissatisfied with my progress in the work, and perhaps not liking the cautious way in which I spoke of other nations, he being eager that I should bring my history down to more modern times, and especially eager that I should write something which would be of use to him in the war, which I was as equally desirous to avoid. I was at last met with a refusal to supply me with any more money. This occurred near the middle of 1866, as near as I can remember. (Mr. Washburn arrived in the country the 2d of November, 1866.) And when finally I was met with a refusal to give me any more money, I considered myself as disengaged and ceased to write any

further. I had then brought my history down to about the year 1810, and during all this time I had continued to be more or less an object of suspicion. The reason of that, I suppose, was that I had not met his anticipations in the history I had written.

I should have stated that different instalments of my history were sent regularly to Lopez's headquarters and examined by him. The official Paraguayan style of writing there, has always been a most fulsome style of adulation of the powers that be. During the war there has not been a single article allowed to appear in the official papers which did not have some reference to the war, and did not contain extravagant praise of Lopez. I wished to write this history in a manner that should meet the approbation of my own conscience; I wished to write it dispassionately, and to keep as free from the appearance of being a partisan as possible; I wished to write something which I might publish in Europe without being ashamed of. I suppose Lopez was disappointed in my not making more frequent reference to him, and in my not paying more adulation to him; at all events I was at last met with a refusal to give me any more money. From that time I sank into extreme poverty; sometimes I really did not know how to obtain my daily food, and I was obliged to seek loans of money from persons who had become my personal friends there. I lived in a most miserable style, and had become reduced to the lowest condition of poverty some time before Mr. Washburn arrived. I might have obtained large sums of money from Lopez if I had chosen to accept the part of a flatterer, or if I had chosen to place myself in his service absolutely, and to do what he might desire me to do in respect to the war; but I did not choose to be so. There was nothing in my manuscript which ought to have given Lopez any offense; it was a fair and impartial account of the settlement of that country in the early part of its history, and was never brought down later than 1810—that is, later than a period of nearly 60 years ago.

Q. Did Lopez retain your manuscript?—A. No; it was returned to me. Not being used by Lopez, his minister of foreign affairs returned it to me with some suggestions as to changes in the early portions of it; the latter portions submitted to him were returned to me without remark. They remained in my possession, as they ought to have done, I having never been paid for my labor in writing at all; and I considered myself released from all obligations to the Paraguayan government in connection with the matter. When Mr. Washburn left Paraguay as I had previously confided the manuscript to his care, he took it with him, and it is now in this country in his custody.

By Mr. ORTH:

Q. After Mr. Washburn arrived, what relations came to exist between you and him?—A. I met Mr. Washburn as an old friend. I had been cut off for many months from a knowledge of all events outside of Paraguay. From the time of the blockade of that country, about the middle of March, 1865, I had received scarcely any information either from the United States or from any other part of the world outside of Paraguay. I did not hear of the assassination of President Lincoln until, I think, the month of September, 1865, and I then heard of his assassination at the same time that I received the news of the final collapse of the confederacy, and of various measures of reconstruction, covering two or three months of the administration of the new President. The arrival of Mr. Washburn had been eagerly anticipated, not only by myself but by a great many foreigners there, who then anticipated a close of the Paraguayan war at almost any time. They were under the same delusion that the people of this country were under in respect to the late civil war. Believing all the time it would close within a few months, the foreigners in Paraguay looked upon Mr. Washburn as the *coming man*, and believed that when the war should terminate he would be able to afford them the protection of which they expected to stand in very great need. Great apprehension was felt by the residents of Asuncion, both native and foreign, that the allied armies on the fall of the capital of Paraguay would sack and pillage the city and country; and the arrival of Mr. Washburn as the only foreign minister there, was believed to be of the greatest importance in that event, supposing he might exert his authority and influence for the protection of persons and property from the general pillage which was expected by the allied forces. His arrival certainly occasioned me great joy. I met him as soon as he arrived, and was in the habit of meeting him two or three times a day for a long time, even before an arrangement which I subsequently made with him to collect information to be used by him in the preparation of a work on Paraguay.

By Mr. SWANN:

Q. Were you then a member of his family?—A. I was not; I resided in my own house. I did not reside under the same roof with him until more than a year after his return there. As I have stated, shortly after Mr. Washburn's arrival, I was engaged by him to collect information to be used by him in his work on Paraguay. I continued in that employment for a number of months. It was for a work which has not yet been published, and which partakes in its character both of history, of impressions of the country, and other features of a miscellaneous character. My own quota of the material contributed to it was chiefly historical in its character. I also placed at his service, to be used in the way of consultation, the matter I had been writing for the Para-

guayan government. They having broken their contract with me, and I being no longer in their service, as I have said, I deemed the material collected to be properly my own, and I loaned it to Mr. Washburn to be consulted by him in writing some historical chapter for his own work. The manuscript written by him was in the Spanish language.

Q. Was it known by the minister of foreign affairs there that you were engaged in this work in common with Mr. Washburn?—A. It was known extra-officially. I never stated it to him as a matter of duty on my part, because I considered my relations with the government as having ceased. My private relations to the minister of foreign affairs continued to be tolerably satisfactory, and I would sometimes see him, generally on public occasions. I made no secret of the circumstance that I was collecting facts for Mr. Washburn, but I did not consider myself bound to make any official report on the subject.

By Mr. ORTH:

Q. The relations between yourself and Mr. Washburn were perfectly agreeable?—A. Generally speaking, they were. Mr. Washburn at that time enjoyed great favor with the government of Lopez. I was, in connection with this matter, under the necessity of consulting a great many of the old residents of Paraguay. I especially consulted them respecting the history of the dictator, Dr. Francia. They amounted to 30 or 40 of the oldest and most intelligent persons whom I could find, and I obtained much information from them for Mr. Washburn, and also for myself, as I still cherished an expectation of being able to make some use of this material at another period. My business in this connection was of course perfectly well known to the Paraguayan government, because that government makes itself acquainted with everything that is going on by means of its system of espionage.

Mr. Washburn apparently enjoyed the favor of the Paraguayan government for more than a year after his arrival in that country. So far as I can understand from his expressions, then and since, I should judge that Mr. Washburn sympathized in a measure with the Paraguayan people in their struggle. He never sympathized with Lopez, personally, because he always knew his character, but he did sympathize to a certain extent with the people of Paraguay.

It is somewhat irrelevant to this investigation, but I nevertheless think it well for me to state another fact showing Mr. Washburn's friendly relations with the Paraguayan government. Without even the previous knowledge of our government, although in conformity with its spirit, he tendered his mediation in the struggle going on, which mediation was accepted by Lopez in the month of March, 1867. In that month Mr. Washburn had an interview with Lopez at his headquarters. Afterwards he passed through the Paraguayan lines for the purpose of an interview with the commander-in-chief of the allied forces. Mr. Washburn spent, I think, two days in the camp of the allies as a guest of their commander-in-chief, who was then the Marquis of Caxias, a Brazilian nobleman. Mr. Washburn's offer of mediation was upon the basis of the reciprocal independence of the countries, including the retention of Lopez himself as the head of the government of Paraguay. The offer was refused by the allies, upon the ground that they had bound themselves by treaty never to make any terms with Lopez, and never to desist from war until they had overthrown him. After receiving this reply from the Marquis of Caxias, Mr. Washburn wrote him a somewhat indignant letter, which has been published, in which he took the ground that, whatever might be the facts of the case as regarded the conduct of Marshal Lopez in the beginning of the war, the allies ought to be willing to treat with him as the head of an independent government, and that their expressed determination to desist from war only on the overthrow of that government ought not to be satisfactory to neutral governments. This letter of Mr. Washburn was considered by Lopez as being a masterly production and very satisfactory to himself. He said that Mr. Washburn in that letter had rendered him a very essential service, by protesting in behalf of neutral governments against the positions assumed by the allies. After two days' conference within the allied lines, as I have stated, Mr. Washburn returned, saw Lopez again and gave an account of the unsatisfactory result of his interview. Lopez expressed himself grateful for the spirit he had shown, and the efforts he had made in favor of the independence of Paraguay, and Mr. Washburn returned to Asuncion, enjoying apparently the high favor of Lopez. I mention this because one of the charges against Mr. Washburn, in connection with the supposed conspiracy which was trumped up, and which caused the death of so many victims, was that under the shelter of his position as an American minister he had ingratiated himself with the commander-in-chief of the allied forces, and had there been concerned in maneuvers directed against the Paraguayan government. This was in March, 1867.

Affairs continued during the entire year of 1867 apparently without any change in the friendly relations between Mr. Washburn and the Paraguayan government. The first serious cause of disagreement between them was as late as the month of February, 1868. In that month the iron-clad fleet of the allies succeeded in forcing its way past

the principal fortress of the Paraguayans called Humaytá, and two of their iron-clads, meeting with no further opposition, ascended the river as far as Asuncion, the capital of the republic. On the approach of these iron-clads, the vice-president of the republic, Don Francisco Sanchez, who was at the head of a sort of phantom government at Asuncion, being cut off from communication with Marshal Lopez, took the responsibility upon himself, (probably in conformity with previous instructions from Lopez, in the possible contingency which had now occurred,) to order the entire evacuation of Asuncion by all its inhabitants; declaring at the same time the town a military post, to be garrisoned by the few hundred Paraguayan soldiers whom he had at his disposal. Forty-eight hours was given for the evacuation; and all the residents, both native and foreign, in that time evacuated the city, going, in accordance with orders given, to certain towns in the interior.

Q. What was the population of Asuncion?—A. The population has been variously stated by different authorities. By some it has been stated as high as 40,000; in my opinion the city never contained more than 20,000. I should state that I believe the passports, directing parties to go to particular towns named in the interior, applied only to foreigners, of whom there were several hundred then in Asuncion. Natives were allowed a larger liberty, and permitted to choose the place of their new residence, but no facilities were furnished them to move their effects. A great majority of them had no beasts of burden or conveyances, and were obliged—including many people of rank—to make the transit of 20 or 40 miles with their families and little ones on foot. Up to this time I had never had any nominal connection with the legation, although being in daily intercourse with Mr. Washburn and in his employ for the purpose of collecting the information I have stated and otherwise, as was perfectly well known. I had occasionally known of his correspondence with the government of Paraguay, and had frequently assisted him in the translation of official documents. I had known the contents of some of his dispatches written to the Secretary of State in Washington, and was living with him on terms of great familiarity. I was pretty well posted in all he did in discharging the duties of his position. At this time, however, as it was supposed by us all that the arrival of the two Brazilian iron-clads would be speedily followed by all the other vessels of the allied squadron, and by the allied army, none of us having any impression that the war would be continued for more than a few days longer, and as there certainly was good reason for supposing the war would then close, Mr. Washburn took upon himself to render a very essential service to the Paraguayans, as well as others, by protecting the property of prominent families from sack and pillage by the allies. I know that it was his hope that he might render available the protection which his position afforded, not only in behalf of his friends, but also in behalf of prominent natives and foreigners who were there, by allowing them refuge under his flag. He resided in a building which covered an entire square, and in which there was room enough to give protection to hundreds of people. Mr. Washburn was actuated by the best intentions in that respect, and had always looked forward to the probability of his being able to render important services under such circumstances. It was probable, then, that he would have a great deal of correspondence on his hands, not merely with the Paraguayan government then in existence, but with another *de facto* government that might be set up, and also with the commander-in-chief of the allied armies. In these labors I could be of great service to him, because I was familiar with Spanish and Portuguese, as also with the Guarani language of the Paraguayans. It was probable that my being with him would be of great importance to him under the circumstances anticipated. He invited me therefore to become a member of his legation, as I had been in fact for a long time connected with it. I was appointed translator to the legation, and as such I was not subject to the requisition of the police department to go to its headquarters and receive a passport to some interior town. Mr. Washburn himself declined to obey that order, which was communicated to him, not technically in the form of an order, but in a way which showed the government expected he would retire with everybody to the interior. He informed the government that he considered himself as accredited to the capital of the republic, and that he should not retire to the interior.

Q. Was that order complied with generally by the citizens?—A. It was enforced unsparingly, and was complied with by all the citizens, and also by the foreign consuls there. They first consulted Mr. Washburn as to whether or not they should obey it; Mr. Washburn gave them his advice to remain and stand up for their rights; but a majority of them seemed to think it would be best to leave, although Mr. Washburn stated to them that he would not leave Asuncion himself. He was the only diplomatic representative there, and with his legation and those under his protection were the only persons who remained in Asuncion, except the soldiers who formed the garrison, the town having been declared a military post. Besides myself, Mr. Washburn also invited another American citizen, by the name of James Manlove, to become a member of his legation, and we both of us expected that in the multiplicity of persons who had deposited their valuables there for his protection—at least 100 in number—we should be of great use in the business he had to transact. Many persons of wealth brought their valuables and deposited them with Mr. Washburn for safe-keeping, without requir-

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ing or receiving any receipt from him. They had such confidence in his integrity that they brought their money and jewelry, and intrusted them to his good faith. He expressly stated to them that he could not give receipts, that he would endeavor to restore to each his property, but that he could make no conditions connected with the deposit. He did not, as was subsequently asserted, demand a percentage for their safe-keeping, but on the contrary said he would make no conditions at all. He said to them: "Whatever property you leave with me will receive the full protection of my flag, as far as I can give it, and will be returned to you when possible under better auspices." In order to take cognizance of this large amount of property, it was very expedient and proper that an additional force should be attached to the legation, especially in view of the contingencies that might arise. The same day that Mr. Manlove and myself received our appointments, Mr. Washburn sent to the minister of foreign affairs a list of the members of his legation for his information. From this list, by inadvertence, the name of Mr. Masterman was omitted. Mr. Masterman had been a member of his family for nearly six months, or since some time in October previous, after he was liberated from prison at the request of Mr. Washburn. The next day afterward, Mr. Washburn sent a supplemental list which included Mr. Masterman.

Q. The minister of foreign affairs had not retired from the city?—A. He did retire; this, however, occurred during the 48 hours given for persons to leave. At the end of that 48 hours both the Vice-President and the minister of foreign affairs retired.

Q. Did they remove the public archives?—A. They did remove them to Luque, a point about 10 miles east of Asuncion, on the line of railroad—the only railroad in Paraguay. At the time of the evacuation of Asuncion, several of the English residents, formerly in the employ of the government, solicited permission to occupy some of the buildings belonging to the American legation, for the purpose of living there until the storm should be over, as it was expected the war would be finished in a few days. They had been in the service of the Paraguayan government as engineers, mechanics, &c., but their contracts had expired. There were 20 or 25 of them, including women and children. There were also two Uruguayan gentlemen, one of whom, Don Francisco Rodriguez Larreta, had come to the country as *chargé d'affaires*, and the other, Dr. Carreras, had formerly been minister from the republic of Uruguay to Paraguay, and had been prime minister in his own country.

By Mr. WASHBURN:

Q. In what capacity did Mr. Rodriguez come to Paraguay?—A. He was a Uruguayan gentleman who came to Paraguay in the month of May, 1864, as secretary of the legation of what is called the Oriental republic of Uruguay, of which Montevideo is the capital. When the war commenced, the minister who was over him left the country, and he remained as *chargé d'affaires*. He continued there until his execution, which took place in August last; he having been executed by order of Lopez. The other gentleman, Dr. Carreras, was a Uruguayan statesman of very large experience in public life, having been three times a cabinet minister in that country, and on the last occasion having been virtually the head of the government. He had also, before the war, been the minister of Uruguay in Paraguay, and had been a decided friend of Lopez before the war, sympathizing very heartily with him in his enterprise as against the Brazilians. This Dr. Carreras, having opposed the Brazilians, and the government to which he belonged having been overthrown by them in February, 1865, was obliged to leave Montevideo with a few of his friends. They succeeded in crossing the lines of the allies into Paraguay, where he offered his services to Lopez. His advice would have been of great importance to Lopez, who received him apparently upon friendly terms, but did not assign him to any situation. He gave him no pecuniary assistance, but recommended him to go to the capital and live there, which he did, in a very quiet secluded way, taking no part in public affairs and making no public manifestations. This continued until the time of the evacuation, as I have stated.

Q. Did he state to Lopez what valuable service he could perform for him?—A. He did; he on more than one occasion proposed to the government of President Lopez to go to Bolivia, and from there to the other republics, Chili and Peru, with a special mission from Lopez, to stir up public opinion in these republics in favor of Paraguay and against Brazil. His influence could have been exerted most potently in this direction, and he would have desired nothing better than to exert it against Brazil, in whatever part of the world he could. However, a short time before the circumstances to which I am referring, an uncle of his had died in Bolivia, leaving him a large property there in mines, amounting to \$150,000, which gave him an additional reason, as soon as he heard of it, for desiring to go to that country.

By Mr. ORTH:

Q. What became of Carreras?—A. He was shot on the 27th of September last, by order of Lopez, for the alleged crime of conspiracy, as having been an accomplice of Mr. Washburn, Mr. Masterman, myself, and many others. The purpose of this conspiracy was charged to be the removal of Marshal Lopez from the government.

I have previously stated that up to this time there was no reason to suppose that

Mr. Washburn was in bad odor with the government of President Lopez, but rather the reverse, as Mr. Washburn had certainly given Lopez reason, on more than one occasion, to thank him for his conduct. Mr. Washburn had exercised his influence repeatedly to obtain the pacification of the conflict going on with the enemies of the republic of Paraguay, and had done all that he could to accomplish that object, without exacting any stipulations or conditions in respect to his services; and at the very time this evacuation was going on, he endeavored to render a great service by receiving valuable property of residents of Paraguay under his protection. This fact ought to have recommended him still further to Lopez; but, probably owing to the circumstance that Mr. Washburn declined to leave the city of Asuncion, when it was expected that he would leave, and of his taking under his protection these Uruguayan gentlemen, from that time onward he seems to have become an object of suspicion. In reply to the note of Mr. Washburn sending the supplemental list of the members of his legation, including Mr. Masterman, Mr. Manlove, and myself, he received a note from the minister of foreign affairs in which, acting probably under previous instructions from Lopez, he declared that he would not recognize Mr. Manlove or myself as being attachés to the legation, entitled to have the freedom of the city. In the notes sent by Mr. Washburn giving the list of the members of his legation, he used the word *service*. He stated that owing to the extraordinary circumstances he had found it necessary to take into the *service* of the legation Mr. Bliss, Mr. Manlove, and several other persons named. Of course the word *service* does not necessarily imply *domestic* service; the officers of a government are in the *service* of that government; but the translator of that note into Spanish rendered the word *service* by a Spanish word which implied that we were *servants*; and in reply the minister expresses his surprise that Mr. Manlove and myself should consent to accept the positions of servants, and stated that as he had known these gentlemen not to belong to that condition of life, he could not recognize them as servants of the legation, and as the police have orders to arrest all persons in the street, not especially privileged, we had better not go outside of the legation. Mr. Washburn had not previously stated in what capacity we were taken into the service of the legation; this circumstance, in connection with Mr. Washburn's refusal to leave the city, served, I presume, to prejudice Lopez against him. I have already mentioned that on the day on which the evacuation was decreed, a consultation took place between Mr. Washburn and the foreign consuls in which Mr. Washburn advised them to remain, while they by a majority of voices thought it best to leave.

By Mr. WASHBURN:

Q. Do you know what reason was given, for instance by the French consul, for leaving?—A. I have the impression that it was from personal fear of the bombardment of the city; I do not remember distinctly. Before the expiration of a complete month from the evacuation according to my recollection, Mr. Manlove was arrested in the streets in accordance with what the government had previously announced, but, of course, in utter violation of his rights as a member of the American legation. The authorities had notified us that they would not regard him as a member of the legation, and he was accordingly arrested while in the streets for nothing except the fact of his being in the street contrary to general orders. On the morning of the 21st of March, 1868, he left the legation and went over to the house of a Frenchman, which was of course deserted, as all the houses in the city were; the keys of the house had been left in his possession by the owner, and he went over with the intention of getting something from the house; the contents of the house had been placed at his disposal. He was just in the act of entering the house when some policemen passed by and questioned him as to what he was doing; he replied that he had authority from the owner to enter the house. They insisted on his going with them and presenting himself to the chief of police; he declined to go and returned to his house followed by the police, who still continued to insist upon his going. He did not have to pass through Mr. Washburn's house to get to his own quarters. Mr. Washburn was not at home at the time. I was living at my own house at that time, but shortly after that I came over to Mr. Manlove's residence, while the altercation with the police was going on. I knew nothing of the circumstances of the case, but informed myself quickly, and as Mr. Washburn was not there and the police insisted on Mr. Manlove's going down to their headquarters, Mr. Washburn's relations not having been up to this time of a disagreeable character, it was supposed the matter could be easily explained by going down to the office of the chief of police, and I offered to accompany Mr. Manlove there. Mr. Manlove consented to go, but said to the policemen, "I will not go with you under arrest; if you simply request me to go down and make an explanation to the chief of police, I will go." They said, "No, we will not arrest you." In order to make the matter perfectly clear, we insisted that the policemen should take one street and we another, which was done, and we arrived at the police headquarters by different routes about the same time. I went in with Mr. Manlove, acting as his interpreter, as he did not speak Spanish. I had hardly commenced the explanation before the chief of police very rudely sent me outside, where I sat down on a bench. After some time Mr. Manlove came out and sat down by me; the chief of police then stated that I was to return to

dh. dh. dh.
 qpp. qpp. qpp.
 ame. ame. ame.
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the legation, but that Mr. Manlove must remain, without giving any further explanation. We separated then, I saying to Mr. Manlove that Mr. Washburn would soon be at home, and that whatever little difficulties there might be, he, Manlove, would doubtless return before night and everything would be straightened. I had no doubt then that the matter would be arranged and that Mr. Manlove would return and sleep at home that night, but that was the last time I ever saw him; he was executed by order of Lopez in August last.

Q. State whether Mr. Washburn had any difficulty on account of an obnoxious person being present in Mr. Manlove's house, whom he (Mr. Washburn) regarded as a spy?—A. There was. The facts of the case, I think, are well known to the committee, through the published documents, and I will only say that Mr. Manlove, previous to his leaving for the last time, had a misunderstanding with Mr. Washburn, and had concluded to leave the legation premises and go to reside in another house. Mr. Manlove remained in prison in Asuncion until July 14, 1868, during which time his meals were sent to him in prison every day from the American legation. Mr. Washburn engaged in correspondence in his behalf with the minister of foreign affairs, but unsuccessfully.

Q. What became of the persons Mr. Washburn employed to take Mr. Manlove's meals to him?—A. They were successively arrested in the streets while carrying his meals, but Mr. Washburn continued still to provide him with the necessities of life until the 14th of July, when Mr. Manlove, along with hundreds of other persons, including many prominent persons, natives and foreigners, were taken to the headquarters of the army, subjected to the farce of a *trial*, which consisted principally in starvation and torture, upon the charge of conspiracy, and were finally executed in August and succeeding months. Respecting Mr. Manlove, I cannot speak of this from my own knowledge, but I know what those pretended *trials* are, and I have reason to believe that none of the persons arrested at this time or subsequently, escaped these horrors. I have seen testimony which shows that he, with others, was most cruelly tortured; indeed, I do not think there was a single one of the 500 or more political prisoners who escaped torture.

Shortly after this difficulty about Mr. Manlove, we began to hear every day or two of the arrest of prominent individuals, who were taken in irons to the headquarters of the army. It was a subject of frequent speculation among the circle residing at the American legation, numbering about 40 individuals, what could be the reason of these summary and arbitrary arrests; many plausible conjectures were made, but not one of us had any idea of the charge of *conspiracy* until the last phases of the crisis. Some time about the middle of the month of June, I think on the 16th, the Portuguese consul, Mr. Leite Pereira, who had been obliged to leave the city with the other residents, and had established himself three or four miles from the city, (having first applied to the government for permission to remain in the city, without success,) came galloping into town with his wife, bringing the information that he had just received a note from the government by which his *exequatur* was canceled; that is to say, he was no longer to be recognized as consul; and he believing that this was only the beginning of sorrows and of persecutions, lost not a moment in packing up his principal valuables and galloping into the city with his wife to take refuge in the American legation. After a few days there came a note from the government inquiring as to the fact of the person (mentioning him by name, as he was no longer recognized by them as Portuguese consul) being at the legation; to which Mr. Washburn replied in the affirmative, denying, however, that the government had any right to ask such a question. A little later came a demand from the government that this gentleman should be surrendered up as a criminal, upon some charge which was not mentioned and which none of us could guess. This Mr. Washburn declined to do after consultation with the principal persons residing in his family, including the Uruguayan gentlemen I have mentioned, Mr. Masterman, and myself. We supposed the charge might arise from some misunderstanding springing from the fact that the Portuguese consul had, like many others, sought to relieve the necessities of destitute Brazilian prisoners of war who came under his observation. We were satisfied if that misapprehension existed there was no foundation for it, beyond the fact I have mentioned. As to the charge of *conspiracy*, none of us at that time had any such idea. On the 11th of July a very long note was received by Mr. Washburn from Don Gumesindo Benitez, the minister of foreign affairs. In this note Mr. Benitez discussed the question of the *right of asylum*, and came to the conclusion that Mr. Washburn was not entitled to extend asylum to any persons, and that consequently he was summoned to dismiss from the buildings of the American legation before sunset of the ensuing day, (Sunday,) all the persons who were not members of that legation; this, of course, included the gentlemen I have referred to from Montevideo. There was no insinuation that any of these individuals were guilty of any crime. Nothing was said in this note of any charge made against any one of them. Mr. Washburn consulted with the English engineers and mechanics, who, with their families, concluded it was best for them to leave, and they did so. Mr. Leite Pereira came to the same conclusion and surrendered himself. The Uruguayan gentlemen, on

consultation with Mr. Washburn, thought it was best that Mr. Washburn should make a special application in their behalf for them to be allowed to remain. Mr. Washburn wrote on Sunday, the 12th of July, to the effect that the Englishmen and their families and Mr. Leite Pereira had left, that Dr. Carreras and Mr. Rodriguez desired to remain, if the government did not object to it. He declined to enter into a discussion of the matter as to the right of asylum, but simply stated that the Englishmen and their families consented to leave, while the other gentlemen requested that the government would waive its objections and allow them to remain. To this a letter was received the next morning, July 13, in which the minister of foreign affairs, while thanking Mr. Washburn for his courtesy, as it was called, in meeting the views of the government in having the English leave, &c., stated that they could not grant him the favor he asked of allowing the Uruguayan gentlemen to remain, because they were *criminals*, and "that fact had not been mentioned in the note of the day before because the government had desired to avoid any unpleasant allusions, preferring to arrest them on the street; as Mr. Washburn had, however, spoken of them as his *friends* and entered into some statements in their behalf, the government was obliged to state that they were criminals and consequently that they could not be allowed to remain, and that the government would not concede the right of asylum to any persons not members of the legation." It was a day of agony in the legation. All of us had felt, latterly, as if we had halts about our necks. Some of us were at first inclined to put a bold face upon the matter and deny the right of the Paraguayan government to take any such steps, and to insist on the protection of these gentlemen; but they themselves, fearing that such a step might involve Mr. Washburn in difficulty, it being doubtful how long he might remain in Paraguay, having already sent on his resignation, and believing they might be in greater danger by remaining than by voluntarily delivering themselves up, proposed to surrender themselves. They also hoped to clear themselves from these mysterious charges. Mr. Washburn could not promise them protection till the end of the war, because he might be recalled by his own government at any moment. He had said in his letters to the government that specific charges must be made before he could feel himself bound to turn anybody out of his legation, and we well understood that specific charges would be made if they did not go voluntarily. On the whole, these gentlemen, confiding in their innocence, and entirely ignorant of any charge that could be made truthfully against them, having always sympathized heartily with the Paraguayan government in so far as the issue between her and Brazil was concerned, knowing they had done nothing which could properly render them objects of suspicion, preferred to give themselves up, and did so that day. They were arrested on the corner of the street in our sight.

These gentlemen having left at 1 o'clock in the day, the same evening Mr. Washburn received another dispatch, in which Mr. Masterman and myself were demanded as being guilty of crimes "not less serious than the persons who had previously delivered themselves up," but without specifying those charges, as indeed no charge had been specified against anybody. As we were claimed by Mr. Washburn as members of his legation, he determined that he not only would not surrender us up, but advised us not to surrender ourselves, and immediately replied to that effect, stating that we were members of his legation, that he could not assent to our extradition, and asking for his passports in order to leave the country along with us. He continued to maintain a correspondence on the subject for about two months. I should have mentioned that on the previous day, the 12th of July, the four corners of the street around the legation were occupied by pickets of soldiers doing police duty in the city. Their number varied from time to time, but there were never less than from 20 to 30, and sometimes more. They remained there for two months, night and day, with orders to seize Mr. Masterman and myself if we should present ourselves in the street. We were consequently obliged to remain in the legation all this time. I could not at any time go to my own private residence, where I had left my own property, including valuable documents and manuscripts, which on my imprisonment remained there, and which I have never recovered. At this time no one in the legation was called for but Mr. Masterman and myself, all the others having previously left. In the last days of August, the United States gunboat Wasp arrived in Paraguayan waters, to take away the members of the American legation. Mr. Washburn then applied for passports for members of that legation, expressly including Mr. Masterman and myself; to which the government replied, stating that passports would be given to *himself*, and his legation *only*, the members of his present household; expressly excluding Mr. Masterman and myself, and a negro servant who had come to the house as the servant of Dr. Carreras. On the 10th of September, after making my will, which was attested by Mr. Washburn and delivered to him, and writing letters to my parents, Mr. Washburn and the members of his legation started from his residence to go on board the Paraguayan steamer, to embark on the United States gunboat Wasp, which lay several miles below in the river, not having been allowed to come nearer to the city.

WASHINGTON, D. C., April 24, 1869.

Examination of PORTER C. BLISS continued.

By Mr. ORTH :

Question. When you closed your testimony on Thursday, you had proceeded to your point of departure from the American legation in Asuncion. You will now proceed to relate in narrative from what occurred subsequent to that time.—Answer. On the 10th of September, 1868, Mr. Washburn and the members of his legation started from the legation building on the way to the Paraguayan steamer, which had been set apart for the purpose of taking him to the United States steamer Wasp, three or four miles down the river. At the first corner of the street Mr. Masterman and myself were surrounded by 30 or 40 Paraguayan police soldiers, the same who had been on guard for two months on the lookout for us ; and in the presence of Mr. Washburn, and of the French and Italian consuls, we were driven away to the police prison ; Mr. Washburn making no useless demonstration at the time, other than to salute us in departing by a wave of his hat. We had just gone through the ceremony of parting inside the legation, as we were perfectly well aware that we would be seized, and Mr. Washburn had advised us to accuse *him* of conspiracy, if necessary to save our lives. The Paraguayan government had stated expressly that it would seize our persons by force, if necessary, and had demanded our surrender in peremptory terms on five different occasions during the previous two months.

The troops formed a hollow square, and accosting us in the Guarani language, with shouts and jeers told us to go to the police headquarters. We were each of us provided with a satchel, in which we had packed up such necessities as we considered were most absolutely necessary for our comfort during imprisonment, and which we supposed we would be allowed to retain, including several changes of linen, combs, biscuit, cigars, a little money, one or two books, and other articles of the first necessity. On reaching the police headquarters, the negro servant named Baltazar Carreras, who was also arrested at the same time with us, was first taken inside and ironed. Mr. Masterman and myself were remaining outside until that operation was finished. My turn came next. I was taken in, my satchel taken from me, I was ordered to strip off all my clothing, which was most carefully searched, even the seams being rigorously examined, to see if we had concealed any cutting implements or other articles considered contraband. Everything in my pockets was taken from me, with the exception of a few cigars which were left me. I was then returned the clothing, and told to put it on, and then to sit on a stone in the presence of a large circle of soldiers mounting guard. The blacksmith was called to put fetters upon my ankles, upon which I turned to the chief of police, who sat by, and asked permission to light a cigar ; he looked rather surprised at the audacious request, but allowed me to pick out a cigar, and handed me a light. I sat smoking but silent while the irons (of 30 or 40 pounds' weight) were riveted upon my ankles. I was then taken to a dark dungeon in the interior of the police department, and the door closed but left slightly ajar. Mr. Masterman was treated in the same manner a few moments later.

By the CHAIRMAN :

Q. Was it in your presence that he was ironed?—A. No, sir ; I had been first taken to my dungeon before he was brought in to be ironed, but I could hear the hammering going on. When I speak about what happened to me, I wish to be understood as stating substantially what happened to both of us, except in cases where I refer particularly to one of us only. Mr. Masterman not being here and having submitted only a summary statement, I can, in great part in my depositions, speak also for him. I was left there without any further visits from any person, except on one occasion, a small jar of water being brought to me, but no food until 8 o'clock in the evening, which time I spent lying on my back on the brick floor of the dungeon, counting the quarter hours struck by the cathedral clock and smoking. As fast as one cigar was finished I would light another, because a cigar being *company* for me I did not wish to lose the light.

At 8 o'clock in the evening I was called on by a guard and told to follow them. I marched as fast as I could with the heavy weight of my fetters, which allowed me to take steps only about two inches in length. Proceeding to the principal entrance of the police department, I found there a number of soldiers with torches ; I found also horses and mules, with the rough saddles of the country, all prepared as for a night of exertion. The chief of police met me there and told me to get on one of the horses, which was brought up alongside of the steps. I looked at him for some time, not being able to get my wits about me at once, or to imagine *how* I, with those fetters on me, was to mount a horse ! After waiting to receive some further intimation from him, he hinted that I was expected to get on *sideways*, which was the only way I could ride. I was finally assisted to the saddle and then strapped on. Mr. Masterman and the negro were immediately brought out and mounted upon the other beasts. I was the only one who had the honor of being mounted upon a *horse*. The others were mounted

ever voluntarily confessed himself guilty of any conspiracy. And it would have been absurd to have done so, because every person at all acquainted with the condition of things in Paraguay knows very well that under the peculiar system of *espionage* so vigorously and universally carried out, officers of the government being *ex officio* spies upon each other, brother being spy upon brother, friend upon friend, husband upon wife. no such thing as a conspiracy could possibly have existed. The theory of that government has always been that the President should know everything that is passing in the bosom of families. I have within my reach a great amount of evidence which I could present in support of this fact, if the committee desire it. The official documents published by the house coming from the different agents of the government in Paraguay in years past, the reports published in Buenos Ayres and Rio Janeiro papers, coming from officers of other legations as well as those in Paraguay, and letters which had been published from credible witnesses in Paraguay, all go to support this view of the case—that a conspiracy is a thing absolutely impossible in that country. And yet there is no country in the world in which there has been for the last few years so large a number of *imputed* conspiracies. During the dictatorship of Dr. Francia, which lasted from 1815 to 1840, he executed on different occasions all the most important, wealthy, talented inhabitants of the country to the number of 80 or 100 heads of families upon the charge of *conspiracy*. During the dictatorship of the late president, Carlos Antonio Lopez, father of the present Marshal Lopez, another conspiracy was supposed to have been found out, for which another installment of wealthy and influential citizens lost their lives. At the commencement of the dictatorship of the present Marshal Lopez still another conspiracy was said to have been discovered, in which many of the most prominent men of the country were implicated, their head being the priest *Maiz*, who was one of my judges! Their offense was, that they had not really favored the election of Lopez as President. Although the Congress which elected him gave the unanimous suffrages of all its members for Lopez, that did not satisfy him; he knew that the unanimity on the surface was really fictitious; that among the members of the Congress who gave their votes for him, many of them did so under compulsion, the Congress being watched by the military authorities and every mode of influence being brought to bear upon it, which was well known to persons living in Paraguay. During all these years it is not too much to say that almost every foreigner who had any pecuniary interest, anything to constitute *wealth* in that country, has lost his life and his property, and every native family possessed of any wealth or influence in the state has suffered confiscation on the execution of its leading members. Not a person has remained alive in Paraguay of any social rank or position or intelligence. It has been a massacre of all that was respectable and influential in that country from time to time, all upon the absurd charge of *conspiracy*.

The phantom of government which, when Marshal Lopez took the field, was left at the capital in charge of the Vice-President and the four ministers of state, with the different clerks constituting these departments, was not even permitted to continue in existence. All the members constituting this government were arrested *en masse* on the 13th of July last, on the same day that Mr. Masterman and myself were first demanded. The employés of the government, to the number of eighty or one hundred, were arrested on that day and conveyed in irons to the headquarters of the army, where they were put to the mockery of a trial. A majority of them were tortured to death within the next two months and the rest executed. Among the list of the victims of Lopez, as published from an original manuscript found in his encampment, it appears that Lopez has made an indiscriminate slaughter of all those who were his best friends and supporters during the war, including the editors and publishers of all the *four* newspapers which were published in Paraguay in support of Lopez's war policy. This was at different times from July until December, there being some executions almost every day, and almost every day one or more persons being reported as having *died a natural death*, which is another mode of statement for being *tortured to death* in prison, as I said yesterday.

To proceed with my own narrative, after being allowed to lie upon the ground for about half an hour, on reaching the encampment of Lopez about noon, on the 4th of September, 1868, Mr. Masterman and myself were called for by the sergeant of a company of soldiers to be taken before the so-called *tribunals*. We were in the last stage of exhaustion, as previously mentioned, having been then for more than 24 hours without food, and not being destined to receive any until night-fall, making 36 hours in all. Being lame and stiff, and scarcely able to move, we were whipped on by soldiers, derided and jeered by them with the continual exclamation in the Guarani language of "move on, move on." Mr. Masterman was taken before the military tribunal and I before the so-called *civil* tribunal, the latter being the one of highest rank. The negro servant who accompanied us was literally *flogged to death*; he died two days later. These tribunals held their sessions each of them in a mud hut within the encampment of Lopez. I found the tribunal before which I was taken to consist of six or eight military officers, as I supposed them to be, though I afterwards learned that all of those who were really officers of the army were not members of the tribunal, but were merely

spectators on that occasion. But as they all wore military uniforms I supposed them at that time to be all officers and members of the tribunal. Two of them were priests, disguised in the uniform of officers, and these were really the persons constituting the tribunal. A third priest was secretary, and other persons wearing military uniforms were present as spies or spectators. I was interrogated, after taking an oath, by a man apparently about forty years of age, in military uniform, of slender figure, with rather an intellectual appearance, whom I afterwards learned to be the chief inquisitor, the priest called Father Maiz, but whom I then supposed to be a military officer. I was asked my name, and how I came to that encampment, to which I replied, I had come on horseback in the plight in which he then saw me. I was then asked if I knew for what I had been imprisoned; I replied that I had learned by notes addressed to Mr. Washburn, that I was accused of some grave crime, the nature of which was not stated, and that I had understood in the same way that I was charged with signing a paper, as member and secretary of a committee which had agreed to assassinate Marshal Lopez, and substitute another government in the country with the assent of the officers of the allied forces. "I knew these facts concerning the accusations from publications made in the official paper. I had no other means of knowledge, and being completely innocent of these accusations, I could have no reason for knowing why I was arrested other than the official notes which I had seen." The priest then replied: "And how is it that when we have such perfect proof of your guilt, when we know that you have been one of the worst of those who have taken part in this conspiracy, that you have been one of the leading members of the committee organized to take measures for the overthrow of the government of Marshal Lopez and for his own assassination, when your accomplices, all of whom have been imprisoned before you, have confessed their guilt, and you yourself have seen extracts from their statements which have been previously sent to the minister for his information, in which these parties have not only confessed their own criminality, but have accused you also; how is it that you have the audacity to pretend to deny your guilt? You ought to understand that when we have brought you before *this* tribunal your guilt is an ascertained fact. You are not brought here to make any defense of yourself. You are brought here simply for the purpose of clearing up by your own confession and your own depositions the facts in the case connected with your complicity in the conspiracy. As to your guilt we know that already, and we shall not allow you to endeavor to dodge the point." I was then asked again if I would confess myself to be guilty. I replied that I would not, "that I had always been during my entire residence in Paraguay perfectly loyal to the government, had never taken any step which could justly be complained of by the government; that so far as relates to the quarrel between Paraguay and Brazil concerning the question of boundaries and of the balance of power in South America, I had sympathized with Paraguay and had done what I could to sustain the Paraguayan cause in that aspect of the case; that as to the accusation of *conspiracy*, it was absolutely false, no matter who might have testified to the charge. This was all recorded as my protestation of innocence. I was then asked if I knew Dr. Carreras, and if I knew Mr. Rodriguez, and then each one of five or six others who were charged as being principal persons in the conspiracy, and whom, as I afterwards learned, were named as members of the *committee* to which I was accused of having belonged, and which included two of the members of Lopez's cabinet, his own brother, Benigno, and two or three foreign gentlemen who had resided in the country. I was asked if I knew these persons. I replied in each case in the affirmative, stating exactly how far I had known each of these gentlemen. I was then interrogated the second time how it was possible, I having stated that I was well acquainted with each of these individuals, and they having confessed that they were members of the conspiracy in which I was deeply involved, holding an important post therein, for me to have the audacity to maintain my innocence. I replied that "I knew nothing about any such committee or any such conspiracy; that other people might say what they liked, but I would speak the truth. That as I had been sworn on my entrance to the tribunal to speak the truth, in accordance with the terms of my oath I was resolved to tell the truth, and nothing but the truth." I then insisted upon their recording for the second time my protestations of innocence, which was done.

After that, the two priests, as members of the tribunal, appealed to me again, saying that it was entirely useless for me to maintain my innocence. "It was well known I had been led away by Mr. Washburn, who was the genius of evil for the Paraguayan nation." It was intimated to me by insinuation, that by developing all I knew about Mr. Washburn's machinations as connected with the conspiracy, I might lighten my own sufferings and the guilt which they considered as attaching to me in the case. They said to me that they knew I had a most wonderful *memory*; that I was perfectly acquainted with all that had taken place in the matter from first to last; that I had conducted the correspondence in a great measure; and they expected from me a full and detailed statement of all the facts and circumstances, saying that by so doing I might render a service to the government which might go very far to mitigate my own position. They desired me therefore to state "all the facts in regard to the maneuvers of this wretch Washburn, who had just got away from the country by the

skin of his teeth." They expressed themselves very bitterly against Mr. Washburn, who had been charged by the prisoners previously tortured and forced to confess, with being at the head of the conspiracy. The plan of proceeding was simply this: these prisoners were obliged to invent some story, and were desirous of attaching as much blame as they could to parties who they knew to be beyond the reach of the Paraguayan government; it being their plan to protect as far as possible the innocent prisoners who were then within the clutches of Lopez.

By Mr. ORTH :

Q. Do you know whether or not these confessions were made with the assent of Mr. Washburn, in the case of the persons who had been previously arrested?—A. It was not with an understanding on the part of Mr. Washburn, because at the time of these arrests Mr. Washburn had no knowledge of a charge of conspiracy; but in the case of Mr. Masterman and myself, as I have before stated, we had an understanding with Mr. Washburn just previous to our arrest. Mr. Washburn, referring to the notorious fact that false declarations had been made by our friends, most probably under torture, said that we might very likely be spared suffering to a certain extent by our accusing *him*, and that if necessary for the purpose of prolonging our lives, or mitigating our sufferings, we might accuse him of *anything*, and might say *anything* or *everything* against him that circumstances might demand. I resolved not to do so except in the last instance, and under the most absolute necessity. And in order to prevent such a necessity, I repeatedly appealed to my oath, stating to the members of this tribunal that by virtue of the sacredness of my oath I could not do otherwise than protest my innocence. One of the priests finally said to me, "I regret very much, Bliss, that you give us so much trouble. Your companion, Mr. Masterman, has already confessed. He has not given us half as much trouble as you have." Mr. Masterman subsequently informed me that the same thing was said to him, that I had already confessed. In point of fact I believe Mr. Masterman's confession preceded mine by perhaps two or three hours. I repeated my protestation of innocence, which was twice taken down before I would go on. This priest then said: "We have a way of treating refractory criminals which brings them to their senses in a very short time. You may believe my word, you will not be able to persist in your contumacy very long, if we are obliged to resort to this treatment. You will be obliged to endure horrible sufferings if you continue to persist. You know the charges. What do you say? Are you innocent or guilty?" I replied "I am innocent." And I continued to protest my innocence, upon which the two priests left the room and went out to consult, leaving me in the presence of one or two military officers, one of whom was a former acquaintance of mine, Major Serrano. While they were out he expostulated with me. He said: "You know, Bliss, that I have known you before, and would like to do something for you, but it would be perfectly useless for you to attempt to hold out. You will be obliged to confess, and your lot will depend a great deal upon your conduct before this tribunal. If you make a plain straightforward statement, confessing your guilt, and giving full particulars, you may commend yourself to the benevolence of Marshal Lopez, and may probably have your life spared. Otherwise there is no hope for you. If what is called the *process* or record of the trial shows that you remained firm in your protestations of innocence, giving a great deal of trouble to the officers of the tribunal, there is no hope for you." I then inquired of one of the priests who came in to expostulate with me whether he could give me any positive guarantee that in case I complied with their demands they would respect my life. They said they could not make any positive stipulation to that effect, but that I would certainly be entitled to *hope* for clemency upon the part of Marshal Lopez by telling the truth, that is to say, by confessing myself guilty of the conspiracy. All this time they continued to denounce Mr. Washburn, and call upon me to make statements concerning him. After a good deal of reflection, extending amid these altercations through several hours, and having undergone fearful physical suffering, (I was not *then* put to what was ordinarily called torture; but the treatment I had suffered was actually *greater* torture to me than that I endured on any other occasion;) having been taken to that tribunal and kept for 12 mortal hours without any food, and this after having been denied food for 24 hours previously, with my manacles on me which had become painful beyond endurance, eating into the flesh; what I suffered was to me torture beyond anything I afterwards endured, although not *technically* called torture. I say, that, having endured all this, and after reflection, I finally came to the conclusion that I would confess in a general way and throw the blame of everything on Mr. Washburn; that I would not implicate any one within the reach of Lopez, but that I would spin out my statement as long as possible for the purpose of gaining time until I was sure Mr. Washburn had left the country, and was out of harm's way; that I would go into great detail about Mr. Washburn's previous antecedents, thus *talking against time*, and see if it were not possible, by throwing everything upon *him*, to palliate the charges against myself and the other victims who had been forced to make similar confessions. I therefore commenced my statements, going back to the first arrival of Mr. Washburn in the country, seven years before. I spun a long story about the influences under which Mr. Washburn had been appointed. I charged him with

having come to Paraguay originally in 1861, with the intention of making a fortune out of the Hopkins claim; that he intended to make a hundred thousand dollars or more out of that. I went on giving statements at great length about Mr. Washburn's movements and intentions through his entire life in Paraguay, charging him with all sorts of crimes and delinquencies, as agreed upon with Mr. Washburn, himself. I gained time by making these calumnious charges, and at midnight, after being 12 hours before the tribunal, I was remanded to the prison square, where I was chained up by my fetters to a rope which ran round the square and to which all the prisoners were chained at night-fall. Before long a guard came round and I was given some boiled beef which I had to eat with my fingers, that being the only mode of eating allowed, except on some occasions when they brought me a horn spoon. No knife or fork or any cutting instrument was allowed. I might mention, that on arriving at the encampment, all the buckles were torn off from my pants, under pretence of not allowing any metallic substance to remain on my person.

The next morning at an early hour, probably nine o'clock, I was brought before the tribunal again, and on that day, and on each of the four succeeding days, I was up before the tribunal, engaged in spinning these romances about Mr. Washburn. On the first day I was called upon to write those letters to Mr. Washburn which have been published in the United States, and which, of course, were written by order, and under the supervision of these officials, although they express on their face that *at my own request* I was *permitted* to write them. One was written to Mr. Washburn, and one purported to be written to my father. My father's real name is Rev. Asher Bliss, and his residence Onoville, Cattaraugus county, New York. In order to hint to Mr. Washburn that the letter was *not* written *voluntarily* by me, I directed it to *Henry Bliss, esq., New York city*. The letter to Mr. Washburn I was obliged to rewrite five times before it was satisfactory to the officers of this tribunal. It contained statements which I knew Mr. Washburn would be aware were incorrect, but which the tribunal did not know to be incorrect, and which were intended to be a hint to Mr. Washburn, as in fact they were, as taken by him, indicating under what influences any documents coming to him from me in prison were written. Mr. Washburn perfectly well understood it, as he subsequently told me, and as appears from his correspondence from Buenos Ayres, and elsewhere. He knew what must have taken place to have induced me to write these letters, and never felt the least hard feeling in consequence; indeed, he has explicitly approved my conduct under these circumstances.

This first confession which I made was limited to the assumed *fact* of the conspiracy, which had been gotten up in the first instance by Mr. Washburn. I stated that I was an unwilling witness of what was being done; that I had rendered Mr. Washburn some assistance, but I denied having taken any important part in the conspiracy. I was allowed to go on manufacturing this story for four days. On the fourth day I was told that my statements about Mr. Washburn were all very well so far as they went, but that I had been prevaricating; that I had not confessed the full extent of my own complicity with what was called the *revolution*. (That was the cant name for the supposed conspiracy.) "I had not confessed my own very great complicity, and the very important part I had taken." I was interrogated by the person who acted as chief torturer, an officer named Major Aveiro, and who was brought into requisition whenever the services of any person were needed for that purpose. The plan of the conspiracy, as this tribunal had it, was that 11 individuals, constituting a committee, at such a place and such a time, had put their names to a certain paper, which I had drawn up as secretary, in which they had agreed to assassinate Marshal Lopez, and organize a new government in Paraguay. This was the first intimation I had of such a committee. I knew, before that, I was accused of having put my name to some such paper, but who were the *other* persons who had signed along with me I had no idea, and the demand made by the tribunal for the details of this transaction took me by surprise. I replied that I knew nothing about it; that I had not seen such a paper. The major said it was useless to deny it; that he knew I had been secretary of the committee, and drawn up the paper myself, and then said I would be confronted by all the other members of the committee; that they had all confessed *their* complicity, and accused *me*, and that I would have to confess mine. I again replied that I knew nothing about it. During the rest of that day I continued so hold out in my denial of any knowledge of this committee. This was the fourth day. At night-fall, after having been taken back to the encampment, where I was kept, I was brought up again along with Dr. Carreras, the Portuguese consul, and an Italian captain who had been a friend of mine, also a prisoner, all three of whom were accused of having been members of that committee to which I was supposed to have belonged. We were brought up in single file. I was taken in and asked if I still persisted in denying my signature to that document. I replied: "I do deny it, and I will continue to deny it." "Oh!" said a priest, "we will bring in witnesses;" and they did bring in the Italian captain, who being confronted with me, was asked if it was true that I had signed that paper. This man having of course been previously tortured and forced to confess, said I was one of the 11 who had signed it. I still stood out and said that I had not. He was then told

to expostulate with me, and he said to me substantially: "You know, Bliss, you signed this paper. Why do you attempt to deny it? All of us will testify to the same fact. You know very well that you did. Let me bring the circumstances to your mind. Don't you remember that on a certain evening we met together, 11 of us; that Manlove was to have been there, but did not appear? Don't you remember that you arrived last, after we were all assembled?" Said I: "Who were the individuals that signed the paper, and in what order did they sign?" He then mentioned the names in order, commencing with Benigno Lopez, the brother of the President; then Berges, the ex-minister of foreign affairs; then Bedoya, a brother-in-law of Lopez; then Dr. Carreras, the Uruguayan prime minister, and Rodriguez, the former chargé d'affaires of Uruguay, both of whom had been lately living with us at the American legation; then the Portuguese consul and vice-consul, the former of whom had also been arrested from the American legation; then the Italian captain, who was a witness against himself; then two Frenchmen, one being chancellor of the French consulate; and lastly, myself. I paid great attention to this detail, as it gave me the first clue to the individuals with whom I was expected to confess myself to have acted on that committee; and it was for that purpose that I requested him to give the *order of names* in which we had signed. Having a good memory, I was enabled to keep it in my mind for the purpose of making use of it whenever I should come to the point of continuing my confession into this branch of the conspiracy.

This captain was then taken away and Dr. Carreras brought in. He was asked, "Is it true that Bliss was one of the eleven who signed that document with you?" He replied that it was, and the question was then asked of me, "What do you say to that?" I replied, "It is false." Dr. Carreras said to me in a low tone, "It is useless to deny it."

Dr. Carreras was then taken away and the Portuguese consul brought in, being the third witness, who was asked simply, "Do you know the prisoner before you?" His answer was, "Yes." "Was he one of the eleven who signed with you?" "Yes." I had also ascertained that I would be charged with having received an amount of money for my services; in fact that had been stated to me before by the torturer. And I wished to ascertain what had been deposed against me; I therefore asked permission to cross-examine this witness, to which they assented. I then said to the Portuguese consul, "You have testified to my having signed that paper; I suppose you have also said that I received money for it?" "Yes," he said. "How much money do you pretend to charge me with having received?"

The officers of the tribunal breaking in then refused to allow the question to be answered, and the Portuguese consul was hustled away. Then turning to me they said, "Three witnesses you see have testified against you. You know that two witnesses constitute legal proof. We have been very indulgent towards you, while you have been making a fool of us for the last three or four days. You have made statements upon certain points, but you have not confessed the most important point up to the present time. We were under no obligation to bring these witnesses, because our own word is sufficient. All the other members of that committee have confessed in like manner. Will you now confess your part of the plan?" I replied, "No; because of the oath I have taken. I admit that three witnesses constitute legal proof, and yet they cannot make a falsehood true. And I can mention circumstances which would somewhat lessen the worth of their testimony." "What circumstances do you allude to?" Said I, "I allude to physical torture." There was an exchange of glances on the part of the members of the tribunal; when one of them remarked, "You are talking very *metaphysically* with us." "But we will treat you in a very *physical* manner. Call in the major," he said, referring to the officer acting as chief torturer. Major Aveiro then came in. He repeated the question, "Do you confess having signed that paper?" I replied, "No." He said, "You are trying to make a fool of me. I shall not fool with you." Whereupon he commenced buffeting me in the face with his fists. I stood there in my irons while he continued striking me with the full weight of his fist in the face, at every blow asking me, "Do you confess? Do you confess? Do you confess?" And I answered him, "No." When he got tired of that he drew his sword and commenced beating me over the head in like manner, each blow bringing the blood, and asking me, "Do you confess?" I replied in like manner, "I do not." Until, believing I had done enough to save my conscience and that I should not gain anything by enduring this suffering any longer, I replied "Yes." "Then dictate to us the document you signed on that occasion, as we know you were secretary of that organization—the document in which you promised to assassinate Marshal Lopez and to take upon yourselves the direction of the revolutionary movement." Thrown upon my wits in that manner I did dictate in a slow manner the document which is published in one of these congressional papers, [page 23, executive document 5, part 3,] in which I gave the text of a paper agreeing to assassinate Marshal Lopez, provided the means were not found of overthrowing him otherwise, and giving each to the other our word of honor not to reveal what had been agreed upon.

Q. After that had been done what became of you?—A. After that had been done I

was brought up two or three days in succession before the tribunal and required to give all the particulars of the organization; which I had been forced to confess I belonged to. I was charged with having drawn up a constitution for Paraguay to be put in force after the change of government. I was called upon to dictate the articles of that constitution. Believing I might as well give them as good a constitution as possible under the circumstances, in case I should be executed and the records of the tribunal discovered, I went on off-hand to improvise about thirty-five articles of a very liberal constitution.

Q. Was this the first testimony you had given in regard to that constitution?—A. Yes; I had no intimation of it whatever and was obliged to improvise this constitution as soon as I was charged with having framed one. I was cross-examined very minutely about that constitution and everything taken down in writing with great minuteness and carried to the President, as in fact there was almost always present some official spectator on the part of the President who carried to him the records of the tribunal, as fast as made. It seems that the President considered this constitution a rather incendiary document, as is evident from the fact that he did not allow it to go in the records of the tribunal. It was therefore suppressed and does not appear upon the records as permitted by him to be drawn up, and as now published. I should state here that these records as published are false in many respects; nothing is said about torture having been applied. In many respects they are deliberately falsified. The records state that I requested permission to write to my parents and to Mr. Washburn, and that it was conceded to me. It should have been stated that I was *forced* to write these letters. The dates of my depositions were in some cases altered. I was in some instances required to sign papers bearing date several days earlier and in others several days later than the deposition itself should appear.

By Mr. SWANN :

Q. Were these proceedings published from day to day while the trial was going on?—A. No, sir, they were not. After a few days' time I was called upon again and charged with having suppressed further important information. I was charged with having had communication with others of my fellow-prisoners in a clandestine way and especially with having kept from the knowledge of the court very important facts. I denied that also and continued to deny it. I knew very well they would apply torture again, some new form of torture, as I knew they had several forms.

By the CHAIRMAN :

Q. Do you suppose that Lopez considered your part in this alleged conspiracy so important as to require his constant personal attention to your statements, to the exclusion of other matters? Or do you suppose that his attention was given entirely to these matters having nothing else to do?—A. He believed my testimony and he believed my statements to be more faithful in their details than those of most of the other prisoners, for the reason that I was supposed to be secretary of the organization, and I was known to have a good memory. For these reasons they supposed mine would be an authentic account. I had been twice obliged by the pressure of events to confess what was not true as I had been confessing all along, but I thought I would again make a stand, that I would not confess anything further now, that if obliged to do it I would stand the torture as long as I could. I had had eight or ten days of enforced idleness in which to think about it, and came to the conclusion that I would say nothing more unless I was obliged to by pressure beyond my ability to endure. So then I refused to confess anything further and the torture was put in execution. I was seated on the ground, two muskets were placed under my knees and two muskets over my neck, my wrists were tied together behind my back and pulled up by the guard; the muskets above and below were connected with thongs fastened around them so as to be readily tightened; in some instances they were violently tightened by pounding with a mallet. They continued to tighten them, bringing my body in such a position that my abdomen suffered great compression and that I distinctly heard the cracking of the vertebrae of the spine, leaving me in that posture for a long time. In fact after I was on board the United States squadron I could never stoop forward without feeling a twinge in the back and in the abdomen. I remained in that position about 15 minutes, the officers standing over me watching the effects of their cruel work. At the end of that time I was prepared with a new batch of novelties of the most startling character. The priests came and stood over me cross-questioning me and extracted from me a general confession as to the heads of what they had inquired about, before they released me. After I had confessed in general, I was taken in that condition before the tribunal, who set to work to elucidate the minutiae of my new confession. I thought I would try the experiment of frightening Lopez by representing that the whole world was engaged in a combination against him. I stated to that tribunal that the alliance of Brazil, the Argentine government, and Uruguay had been dissolved and replaced by a new secret treaty of double alliance on the part of Brazil and the Argentine Republic, by which the republic of Uruguay was to be sacrificed along with Paraguay, and both of them fall a prey to the larger powers and to be divided up like Poland. I went into geographical

details, stating what were to be the boundaries of each one of these countries, and to give the terms of the treaty, which I had called the *double alliance* between Brazil and the Argentine Republic; stating that England, France, and Spain through their diplomatic agents had all been lending their countenance to the allies, that they were all in sympathy with the conspiracy going on against Paraguay, that it had been resolved to take possession of the Paraguayan army after the conquest of the country and engage it with the Brazilian army in fighting against Bolivia, Peru, and other adjacent countries. In that way I endeavored to confuse Lopez, who believed every word of these statements, and to convince him that he was in a most desperate strait. The evidence that he believed it may be found in the fact that after this he issued a proclamation to his army on the 16th of October, the Paraguayan 4th of July, in which he repeated the statement made in my last declarations as to a general combination of most of the civilized nations against them and made a last appeal to their patriotism.

I should have mentioned that it was my deliberate design in all these statements to exculpate, as far as possible, all my friends who were in durance, and never to charge them with anything beyond what they themselves had confessed, throwing the burden upon those who were absent or upon powerful foreign governments, for the purpose of lessening the degree of guilt which I was obliged to attribute to myself and my companions. Two days after making these last astounding revelations, I was *invited*, that is to say *commanded*, to put them into narrative form along with all my previous revelations. They were considered so very important that I was desired to express them in detail, with such a satirical commentary upon them as could not well be given through the medium of judicial proceedings. I was removed from the circle of prisoners where I had been remaining until that time, to a little straw hut situated a stone's throw from the tribunal, where I remained with my irons on, but had shelter from the weather, which I had not had in any sufficient degree previously. They furnished me a rude seat and a little wooden stand with an inkstand and paper, and kept me there for the next two months, until my transfer on board the American squadron. I then resolved to write against time, believing that so long as I could continue the production of anything startling in my pamphlet my life was reasonably sure of being spared; while in case I finished the pamphlet too soon I had no more guarantee for myself, and in fact I was threatened with death in case the pamphlet I was to write did not meet their expectation.

I commenced my work, devoting about forty pages to a fictitious biography of Mr. Washburn before his arrival in the country, and continuing it down to the conspiracy, indulging in as many digressions as I could, especially in the way of criticising Mr. Washburn's literary efforts, using all the sarcasm that I could command and bringing in as many poetical quotations and old jokes that I could remember. In fact, I made a list of such of my favorite passages of poetry as I could recollect, and put it in my sleeve for the purpose of inserting whenever available. When there was nothing in the narrative to suggest a joke, I would go out of the way to improvise circumstances for the purpose of bringing in the joke or the quotation. And believing this publication would inevitably fall into the hands of the allies and be interpreted by them correctly, I resolved to make it the medium of informing them and all the world in regard to the atrocities committed by President Lopez. I have previously stated that Mr. Washburn had been engaged in writing a work upon Paraguay, and that I had been employed in assisting him. Under the pretense, then, of giving a synopsis of Mr. Washburn's work on Paraguay, I devoted 150 pages to descriptions of the character and the enormities of Lopez, which I attributed to Mr. Washburn's pen, interspersed here and there with most merciless sarcasm in respect to Mr. Washburn's abilities, and especially in regard to this production.

Q. What became of that pamphlet?—A. I have a good many copies of it. Lopez gave me forty copies of it on coming away. I was kept writing with a corporal and guard over me some 12 or 14 hours a day. It was good discipline, and taught me industrious habits as a writer which I had never been noted for before that time. I have written as high as fourteen foolscap pages in a single day under these circumstances, and it should be remembered that this was written in a language that was foreign to me—the Spanish language—composed entirely of fictitious matter, inventing everything as fast as I went along. You can therefore very readily imagine there was some strain upon my intellectual faculties.

After a short time the printing of the manuscript commenced and continued—a sheet or eight pages being printed each day—until the completion of a pamphlet of 323 pages, quite a large book. The proofs were brought to me every day. I often wrote up to the middle of the night, and sometimes have been roused at 2 o'clock in the morning for the correction of proof, and as I was working against time, I was very particular about correcting the proof, often making as many new mistakes as I had corrected. I insisted upon the same proofs being brought to me repeatedly, and corrected them frequently three or four times over. At the last moment when the sheet was ready to go to the press I would discover that I had omitted some very important thing, which I would insist on interpolating or would put into the margin. On one of these occasions

I got into a quarrel with the priest, Father Maiz, having the printing in charge. He protested against so many extracts from Mr. Washburn's book, which were in utter condemnation of the administration of Lopez. He said to me: "Do you suppose we are so obtuse as not to see the drift of what you are doing? Do you suppose we are not able to see that you are writing a satire upon Marshal Lopez under pretense of quoting from Mr. Washburn's book? That you are anxious to put in everything that reflects upon him, and that you sedulously contrive to do so?" "Now," said he, "I will come in again in the course of an hour, and I advise you to look over your manuscript pretty closely in that time, when I shall take it away, and if anything of that description remains in it you will fare hard. It looks now as if you might have to stand your trial over again for deliberately falsifying and libelling the character of Marshal Lopez." As the basis of this charge was correct, being precisely what I had been endeavoring to do, *i. e.*, to give a *true* account of Lopez under the *nom de plume* of Washburn, I concluded that my time had come; but I put the best face upon it I could. The priest left me, and I hastily destroyed two or three very stinging bits of manuscript which I had prepared; but he did not return. He had previously been in the habit of examining my manuscript, everything I had done up to date. But just the reverse of what he had threatened to do took place. From that time he never examined my manuscript at all. I cannot account for it, but such was the case. He actually gave me greater scope than before, and I pursued the same policy afterwards. This same principal inquisitor, whose name was Maiz, had himself been imprisoned three years on the charge of having headed a former conspiracy, and he ingratiated himself with Lopez by writing a most abject confession of his own guilt, and now having greater familiarity with the conspiracy business than others, he was thought to be a most fitting person to persecute persons engaged in *new* conspiracies.

I had spun my pamphlet out as long as it was possible, and finally brought it to a conclusion on the 2d of December; that is to say, the printing was finished then; the writing had been finished some time before. On the 4th of December I was told that Marshal Lopez, out of his unbounded clemency, had determined to mitigate my sufferings, and a blacksmith was called in to take off my fetters. I had worn my fetters all this time, and had been kept on starvation diet, which consisted of a small ration of boiled beef twice a day, with a little cake of Mandioca flour, made from the root of a vegetable of that country, used as a substitute for potatoes. The diet was insufficient in quantity. I could have eaten at any time twice as much as I received. I was then asked what I would do in case I should see Mr. Washburn, or be brought face to face with him. I was asked if I remembered the concluding paragraph of my pamphlet, in which I expressed myself as desiring nothing better than to be allowed to go away from Paraguay, in order to prosecute Mr. Washburn before his own government for malfeasance in office. I declared that I would prosecute Mr. Washburn from one end of the world to the other until I had obtained satisfaction from him for getting me into that "bad box." I replied that I *did* remember it well, and quoted it. Some further hints were then given me that I might, perhaps, be soon set at liberty, though nothing definite was said on that subject. I was asked whether I would maintain my consistency in case I was the recipient of the clemency of his excellency Marshal Lopez. A blank book was brought to me, and I was invited to write in it, and asked what I wished to write. I said I did not know; "I was willing to write anything." I was set to work writing some epistles in a satirical style, directed to the commander in chief of the Brazilian army, the Marquis of Caxias, which were immediately published in sheets by order of Lopez. Four days later (on the 8th of December,) I was called out of my hut and had an interview with the inquisitor and head torturer. I was at that time, as I have mentioned, without any irons on, they having been removed four days before. I was then told that in his most exalted clemency Marshal Lopez had resolved to *pardon* my great offenses; that a new American minister had arrived there, and that as an act of courtesy to this American minister, President Lopez wished to pardon me, on condition of my maintaining *consistency* with my declarations before the tribunal, and that I was about to be brought before the tribunal for the last time; that everything would depend upon my conduct there, and my *preserving consistency*. I had been for three months wearing the same suit of clothes, and of course my pantaloons were cut to pieces with the irons. Of course I was fearfully dirty, and covered with vermin. A pair of drawers and shirt and some water was brought, and I was requested to put myself into a little more presentable condition before being called before the court for the *last act*. I was told I would find some of my countrymen there. I was not told who they were, or for what purpose they would be there. Nothing was said about the presence of the American squadron. Nothing was said about a demand having been made for our liberation. I concluded I was going to be formally sentenced to death, and that this sentence would then be remitted, and prepared to listen to such a process. But no sentence was passed upon me, and my trial never came to a technical conclusion. I was brought before the tribunal and found there two of our naval officers, to whom I was introduced in a very indistinct way. I understood one to be Lieutenant Commander Kirkland. The other officer's name I did not then catch, but

ascertained subsequently that it was Fleet Captain Ramsey, chief of staff to Admiral Davis. These officers said nothing to me except to ask my name—"Are you Bliss or are you Masterman?" I replied, giving my name. The tribunal then proceeded to cause all my depositions which had been taken down, during 20 days or more, to be read over, occupying the entire afternoon in the process. This took place in the mud hut in which the tribunal was held by the two priests I have referred to. These two naval officers took seats with the members of the tribunal, with whom they were laughing, smoking, drinking brandy, and receiving presents. They seemed to be on the most intimate terms with the members of the tribunal, but never saying a word to me, or taking any interest in my condition. At various times during this proceeding I was called on to acknowledge the genuineness of my signatures to the successive depositions. I did so, speaking in Spanish. I was then told by one of the naval officers to speak in English, and I replied in English, "That is my signature." At the conclusion of this proceeding we exchanged no further words, and in the presence of the United States officers I was called upon to subscribe to the entire document, acknowledging all my signatures, and certifying again to the correctness of the entire depositions, on which the members of the tribunal and the officers of the United States navy present signed the record. It was not stated whether or not they signed as witnesses, or as members of the tribunal.

Q. Was Mr. Masterman present?—A. Mr. Masterman was waiting outside the hut, and the same ceremony was afterward gone through with in respect to him. Mr. Masterman had also written a pamphlet, but he had not been able to invent anything of importance. His pamphlet consisted only of about 20 pages, and contained nothing but sheer abuse of Mr. Washburn. As fast as I stated anything supposed to be important, other prisoners were called up and made to indorse it. It was a good thing for them, as I always kept steadfastly in view the object of making such statements as would be for the behoof both of myself and all the other prisoners. Our interests were the same. And I never accused either myself or them, except so far as I was obliged to do it. During this interview there were present two Paraguayan officers, who understood English, so that I could not have spoken freely to the American officers. The head torturer sat opposite me, sword in hand, and with his sinister eyes fixed upon me with the most menacing manner all the time.

By Mr. WILKINSON:

Q. Did it occur to you that you could speak right out and deny all these confessions before these naval officers?—A. The question occurred to me and I reflected upon it as much as I could within the limited time allowed me, but I was then of the opinion which I still hold, that my life depended upon my confirming those statements.

Q. Did you not believe it was in the power of these officers to have protected you?—A. No; the presence of these officers would have afforded no protection. I should have been ordered out for instant execution.

Q. Did these officers then leave you?—A. They did.

By Mr. ORTH:

Q. What presents did these naval officers receive?—A. Lace-work and other curiosities of the productions of the country. I am not a personal witness of that, but Mr. Masterman was. I have my information from him.

Q. Did they put no questions to you at all?—A. None, except to ask me my name and tell me to speak in English. When I was called upon to verify my signature, I replied, "That is my signature." That is all I said and all they said.

Q. Did they ask you whether your statement was true or false?—A. Lieutenant Commander Kirkland said: "You acknowledge all that to be true?" I replied "Yes."

Q. Did he ask you how it was obtained?—A. He asked no further question whatever.

Q. Did either of them remonstrate with the officer for keeping watch over you with the drawn sword?—A. They made no remonstrance whatever. They seemed to be perfectly satisfied with the manner affairs were going on.

By Mr. SWANN:

Q. Had you reason to believe that these American officers were under any impression that these statements had been extorted from you?—A. I did not consider it safe for me to say a word to that effect under these circumstances.

Q. Were they under the impression that your depositions were all true?—A. If they were fools enough to believe so, under such circumstances, they may have done so; in fact, I suppose they did so believe.

Q. How long had they been in the country before this?—A. They had just arrived. They arrived on the second day of that month. This was on the 8th. They had had no communication with any foreigner in the country. The foreigners being all in the prison, and they knew nothing except what Lopez had told the admiral. Lopez said that we had freely confessed our guilt, and apparently succeeded in bamboozling him completely.

Q. You will proceed with your narrative.—A. I was kept in prison two days afterwards. During which time I was called on to write two or three documents; one of them was a letter of thanks to Marshal Lopez for pardoning me.

Q. Still there was nothing said of your release having been demanded?—A. No; nothing whatever, except what I have stated: "What is your name?" "Speak in English." "Do you acknowledge all that to be true?" That was all that was said to me by the American officers. I was in total darkness as to the circumstances of the arrival of the American squadron. I did not suppose there was but *one* steamer there. I supposed that the Wasp had come up to bring our new American minister, whose name was not told me.

Q. Was that General McMahon?—A. Yes; he was on board the Wasp; and three other steamers had also come up. I was proceeding to say that during these two days I was made to write a letter thanking Lopez for his clemency in pardoning me. I was made to write another letter to the members of the tribunal, in which I was expected to praise their impartiality and the benignity with which they had conducted my trial, as well as the high judicial qualities they had displayed. I was also required to write another satirical letter to the commander-in-chief of the Brazilian forces, and a letter to Mr. Washburn. All of which, except the first two, were printed on separate sheets by order of Lopez, as being very important cards for him, and copies of which given to me. On the 10th of December, at about 9 o'clock in the evening, Mr. Masterman and myself were mounted upon horses and escorted by a Paraguayan captain and several men. We proceeded through by-paths, avoiding passing through the centre of the encampment for a distance of about four miles, bringing us to the banks of the river Paraguay.

Q. You did not return to Asuncion?—A. No, sir. Our property, of course, remained confiscated in Paraguay. Before I left the head torturer brought me, done up in a large sack, 40 copies of my pamphlet, which had just been finished a few days before. I had written a letter to Lopez, to which he sent to me a very affectionate verbal reply. I had been obliged to confess that I had received \$5,000 in silver and \$5,550 in currency; and I had sent word to Lopez asking what he desired me to do with it. I had said that most of it had been taken out of the country by Mr. Washburn, who had probably confiscated it to his own purposes, but that in case I ever got hold of it I wished to return it to the Paraguayan government. I asked what disposition I should make of it. I received an answer that I might have no scruples in using a part of it for the purpose of convicting Mr. Washburn; that if my conscience forced upon me the return of the rest, I might return it to the Paraguayan legation in Paris. Just before embarking, however, in consideration of the letters I had written and the messages I had sent to the President, I received another cordial message from him in which he told me I might retain all that money myself; that I need not be at any pains to return any of it, it being understood that I should devote some part of it to the task of prosecuting Mr. Washburn for his crimes and misdemeanors. At the same time he sent me a few gold coins for my expenses on the home voyage. This I accepted, as it would have been dangerous to refuse it. I was put on board the United States gunboat Wasp by a Paraguayan canoe at near midnight on the 10th of December. Lieutenant Commander Kirkland was in command of the Wasp.

Q. Did you meet him on board?—A. I met him on the quarter-deck as I went up.

Q. Did he speak to you?—A. Mr. Masterman and myself saluted him. His reply was to call the master-at-arms and say to him, "Take these men *forward*; (that is to say, among the crew.) "Put a special guard over them, and do not let them loaf about; keep them together." Mr. Masterman, who is endowed with a full modicum of English pride, and who has been an honorary lieutenant in the English service in the Crimea, on the medical staff, flared up at once. He expostulated with Captain Kirkland, saying: "We are not mechanics. You call us *men*. I have been a lieutenant in the English service in the Crimean war, and have enjoyed the same rank in the Paraguayan army. You last saw us as *criminals*, but I hope you suspended your judgment." Captain Kirkland replied: "What would you have us call you? Would you have us call you *Misses*?" He said if we did not like the quarters, we could sleep on deck if we chose. He also said that we were to be treated as criminals, and sent as such to the United States. We slept on the hard deck that night among the sailors, with a sentry over us. It being the first occasion we had had of conversing with each other since the time of our imprisonment, we spent much of the night in conversation and comparing notes. We then learned for the first time that each of us had been writing a pamphlet, at least so far as I was concerned. Mr. Masterman, I believe, did know that I had been writing one, but I had no idea that he had been writing one. We compared the statements we had been writing, and discovered a wonderful coincidence in the stories we had been inventing; which is to be accounted for from the fact that whenever Mr. Masterman disclosed anything supposed to be important, I was called upon to confirm it, which I always did, going into further details in the same direction. The same was also true in respect to *my* statements being carried to him, which he always confirmed, taking the cue from me.

We had now been received on board the United States gunboat as *prisoners*. The

officers of the squadron in general held no intercourse with us. For 11 months of that year we had received no news outside of Paraguay, except a few items in a private letter to Mr. Washburn, and we were in entire ignorance of what had been going on in the world; entirely ignorant of the circumstances of our own relief, ignorant even of the fact of an American squadron having arrived, and we were left to learn the news as best we could. The following morning we first learned the name of the American minister who was on board, and that a squadron of four vessels was present. I then, on behalf of Mr. Masterman and of myself, most earnestly requested to see General McMahon, in order to inform him of the condition of things in Paraguay, and especially of Americans who were still in prison, five or six in number, and part of whom, I have since learned, had already been executed, as the others were at a later day. I made this request through the officer of the deck, who brought me the reply that, "in case General McMahon wanted to see me, he would send for me!" I never heard anything further from him after receiving this contemptuous reply. I was never invited to have, nor did I ever ask for any interview with Admiral Davis, Captain Ramsey, Captain Kirkland, nor any superior officer, until the last day of my stay on the American squadron, when I had an informal interview with Admiral Davis, at his own request, but upon a matter entirely foreign to these circumstances.

By the CHAIRMAN:

Q. Was General McMahon on board the same steamer with yourself?—A. He was on the same vessel with me for two days. On December 12, General McMahon landed from the *Wasp*, and the vessel started for Montevideo. As soon as the *Wasp* got under way for Montevideo the guard of Mr. Masterman and myself was taken away, but two or three days after our arrival at Montevideo it was placed over us again. We were allowed to communicate with some of the under-officers of the vessel, but with none of the superior officers—that is to say, none of them chose to associate with us. On our arrival in the road of Montevideo we were transferred to the flag-ship of Admiral Davis, the *Guerriere*. I should mention that we had been kept on the ordinary diet of sailors, which is hard sea-biscuit, pork, occasionally beans and rancid butter, and once or twice a week an atrocious mixture, which is very appropriately called *dandy funk*, composed of sea-biscuit moistened, mixed with molasses and baked. My stomach revolted from it. I could not eat anything. I was suffering from dysentery, and the diet aggravated the disease. I was an intense sufferer while on board the *Wasp*.

Q. You had no medical attendance?—A. I made known my condition to the physician, Dr. Gale, and requested to be allowed a little brandy, which I much needed, and on one single occasion only I received a wine-glass full. I requested to be allowed a regular ration of rice. The doctor ordered me some on two or three occasions, but not regularly, and I still continued unrelieved until I was transferred to the *Guerriere*, when the change of diet effected an instantaneous cure. On board the *Guerriere* we were put into the mess of the warrant officers, and the change from barbarous to *civilized* fare, as I have stated, worked an instantaneous cure. Our diet after this was good, being the same that was served at the warrant officers' mess. I have nothing to complain of in that respect. From being a severe sufferer, after being one day on board the *Guerriere*, I found myself surprisingly better.

WASHINGTON, D. C., April 26, 1869.

Examination of PORTER C. BLISS continued.

By Mr. ORTH:

Question. What were you told by the Paraguayan authorities prior to your appearance before the judges on the 8th of December, 1868?—Answer. I was told by one of the judges who was accompanied by Major Aveiro, a man who acted as chief torturer, that a United States gunboat had arrived with a new American minister on board whose name was not told me, nor was anything said about the arrival of the squadron or of the admiral. This was on the occasion when they informed me that President Lopez desired to pardon me and deliver me over to the custody of the new American minister, to be dealt with by the justice of my own country; that he had determined to do this as a courtesy to the new American minister, and that it must be understood that it was with the condition that I should be *consistent* with my confessions; that I was then to be called before the tribunal for a *last act*: that was the expression used; and as I have stated, the impression conveyed to my mind on that occasion was that I would meet some of my countrymen, but who, or in what capacity, I had no idea, and that the *last act* or ceremony would be to formally condemn me to death, and then remit the sentence and turn me over to the American minister.

Q. Had you been acquainted prior to this time with Lieutenant Commander Kirkland or with Captain Ramsay?—I had not. I knew that Lieutenant Commander Kirkland was commander of the *Wasp*. I had no idea who the other officer was, although I understood he was not in command. If his name was mentioned to me it was in such a tone that I could not make out who he was.

Q. How did you know that Captain Kirkland was commander of the Wasp?—A. Because he had been up on two previous occasions. I did not know him personally. I was told by the judges, "This is Captain Kirkland." And the other officer's name may have been mentioned, but I could not identify him.

Q. Were these officers in uniform?—A. They were in uniform, but I, not being acquainted with naval uniforms, could not judge as to their rank. I knew they were American officers.

Q. Why did you not in the presence of these American officers, when called on to verify your testimony, extorted from you under torture, state in their presence that it had been extorted from you and deny the whole thing?—A. Because it would have been the signal for my execution. I was fully persuaded as to that fact. I had reflected upon it before I came, and came fully to that conclusion, which was corroborated by exactly similar conduct on the part of Mr. Masterman, and approved by every one having a personal knowledge of the character of Lopez. I was fully convinced that such a step on my part would have caused my immediate execution.

Q. How far were these officers away from their vessels?—A. Four miles in a line from the river.

Q. Had they any officers with them?—A. None whatever; they were alone.

Q. When you got on board the Wasp you learned that General McMahon, the American minister, was there?—A. I had previously learned that a minister was on board. I did not learn his name until the day following our embarkation on board the Wasp.

Q. Why did you not, as soon as you learned the American minister was on board, communicate with him and tell him that your testimony had been extorted from you?—A. That is precisely the gravest charge I have to make against these proceedings on the part of American officers. I *did* demand to see the American minister the following morning after my arrival on the Wasp. I earnestly requested to see General McMahon for the purpose of communicating these facts to him.

Q. Did you inform the officer of the deck of the nature of the information you wished to communicate?—A. I told him this far, that I was possessed of very important information which it was very necessary that General McMahon should know before going to his destination. I wished to communicate, as I have already stated, the fact of a general imprisonment of all foreigners, and that other American citizens were in the clutches of Lopez. I supposed that Admiral Davis and all the other officers of the squadron must know perfectly well from Mr. Washburn the circumstances of my imprisonment, but it seems they placed no confidence in Mr. Washburn's statements. When I learned that an American minister to Paraguay was on board, I, as a member of the American legation, considered it my *duty* to communicate with him in *any case*, and I was very much surprised that he had not called for me of his own accord before this. But on the 11th of December, at the earnest request of Mr. Masterman, as well as on the promptings of my own opinions, I went to the officer of the deck, whose name I do not now remember, but could easily ascertain, and stated to him that I was possessed of very important information which I wished to communicate to General McMahon before he landed in Paraguay, and that among other things I wished to communicate to him the circumstances of my imprisonment, and that American citizens were still in the clutches of Lopez. This officer received my communication very coolly and remarked, "We have been informed about all these things beforehand." I replied that General McMahon could not possibly have the information I wished to give him; that I had information which no one else could possibly possess, and that I wished to give it. The officer replied that he would take my message to General McMahon, which he did, and returned with the answer, "General McMahon says that if he should wish to see you he will call for you." The day after that he went on shore without my ever having set eyes upon him.

Q. When did you make your first demand to communicate with Admiral Davis?—A. I never made any demand to communicate with Admiral Davis at all. I considered myself aggrieved by the treatment I received and made up my mind immediately that it was a case in which my own dignity would best be consulted by declining to make any demand for an interview with Admiral Davis.

Q. Was Admiral Davis aware of your desire to communicate with Gen. McMahon?—A. I have no doubt he was, although I cannot certify to the fact.

Q. Did Admiral Davis remain on the Wasp until you got down to Buenos Ayres?—A. He remained on the same vessel with me during the entire time. I was on board the United States squadron, that is to say, one week on board the Wasp and five weeks on board the Guerriere, the admiral's flag-ship; he was on board the same steamer all the time.

Q. You will now proceed to describe the treatment you received on board the Wasp.—A. I mentioned the other day that immediately after arriving on board the Wasp Mr. Masterman and myself were put under guard. After the steamer got under way for Montevideo, the guard was taken off. When we arrived at Montevideo there was at first no guard put over us and I supposed at that time the guard was merely a precaution against our communicating with any unauthorized party on shore in Paraguay. I was

told when the guard was removed, by the officer of the deck, that I was at liberty to go about without a guard, but that my movements would be watched and that I was not to communicate with any person outside the vessel. I gave my parole that I would not do so. On arriving in Montevideo, December 18, I was transferred with Mr. Masterman to the flag-ship *Guerriere*. We were put into the warrant officer's mess and for two days there was no surveillance upon us—no officer placed over us. The day after my arrival on board the *Guerriere* I wrote a letter to my parents to be sent by a vessel about to sail, and not being under arrest at the time, I stated that fact, implying that I *had been* under arrest on the *Wasp*, though I did not expressly so state. The object of that letter was to quiet the apprehensions of my parents and to speak as lightly as possible of the circumstances with which I was surrounded. I was delighted to get from on board the *Wasp*, where I was kept on the most miserable fare, and to be on board a vessel where, for the first time for several years, I could have something like a decent diet. I was overjoyed at the time and wrote in a somewhat jubilant strain. My letter has been published and can be referred to by the committee if they desire.

On the day succeeding, two gentlemen came on board the vessel to see me; one was Dr. Peter Bourse, an American dentist living in Montevideo, a friend of mine, the other was Don Carlos Saguier, also an acquaintance of mine, and a prominent Paraguayan gentleman residing in Buenos Ayres, hostile in his sentiments, however, to President Lopez and wishing for his downfall. The gentlemen came on board, as I afterwards learned, and had an interview with some of the officers, but without seeing the admiral; requesting to see me, they were refused permission. They then requested to see the admiral. That was contemptuously refused, and they immediately left the vessel and a non-commissioned officer was immediately placed in charge of Mr. Masterman and myself, with orders to keep us together and not to allow us to hold any communication with any person from outside the vessel, nor to allow us to write any letters or receive any letters except by permission. That non-commissioned officer was frequently relieved of course by others, but the same order was continued in force for about three weeks. I am not certain of the exact length of time. Mr. Masterman losing patience at the insults to which we were subjected, made the effort to ingratiate himself with the admiral by a personal interview which he solicited, referring to the fact that he had been a lieutenant in the English service, and succeeded so far as to have the guard removed in respect to himself, he remaining on his parole, and from that time the officer placed over us had no further custody of Mr. Masterman. I believed then, and believe now, that by taking the same steps, Admiral Davis would probably have taken the same course in regard to myself, but I did not choose to do it. I felt greatly aggrieved at the conduct of the admiral towards me, and declined to have any communication with him except at his request or order.

Q. Why did you feel aggrieved at the conduct of Admiral Davis?—A. For having been received on board the United States squadron as a criminal and for having been assigned by Lieutenant Commander Kirkland, when I came on board, to the deck of the *Wasp*. Mr. Masterman said to him that he hoped he did not believe all he heard the other day when he saw us before the court arraigned as criminals, that he hoped he had suspended his judgment at least. His reply was, "I do not know about that. I cannot judge. I receive you here as criminals, and you will have to be considered as such until you are proved to be otherwise." Mr. Masterman, in his testimony, has used the word *criminal*, and to the best of my recollection that is correct. I am not absolutely certain as to the use of that word. If *criminal* was not used the word used was *felon*. I did not say a word in that conversation, but looked on with amazement to see members of the American legation treated in that way.

Q. Was he aware of your connection with the legation?—A. Yes, sir; he was perfectly aware of it. Mr. Washburn had told him fully. Mr. Washburn had then left for the United States. After the arrival of the American squadron at Montevideo most false and calumnious articles concerning Mr. Masterman and myself, proceeding from officers of the United States squadron, were published in the papers. I cannot tell what officers were engaged in these publications, but they must have proceeded from persons who came down on that squadron, because statements were made which could not have proceeded from anybody else. To these calumnious communications we were not allowed to reply, but were expressly told that all our communications would be scrutinized by the authorities, that is, by the admiral and the captain of the vessel. I was told this by Captain Woolsey, in command of the flag-ship *Guerriere*. I was told that the admiral, in person, inspected all the letters which I received and which I endeavored to send.

By Mr. WILLARD:

Q. Why did the fact that they were to inspect the letters you sent prevent you from writing and replying to these publications?—A. One letter which I received was handed to me from the admiral torn open. This was from a Paraguayan officer who had been a prisoner of war, and who having seen published a part of my extorted confessions, wrote to me to know whether they were genuine, and asked me in reply to state the exact facts of the case. I sent that letter to the admiral with a reply stating the exact facts

of the case. The letter was sent to its address and was probably published. I have a copy of it which I will submit to the committee. Another letter which I wrote just before leaving Montevideo in time to be forwarded before the vessel left, was returned to me after we had been out at sea three days, with the remark that the admiral had not seen fit to send it.

Q. What was in the letter?—A. It was a letter to the father of Captain Antonio Falcon, one of the victims of Lopez who was a fellow-prisoner of mine. I wrote this letter to the effect that, having seen his son in prison, I had just learned that he had lost his life. The reply, when this letter was returned to me, was that the admiral could not send it except through Captain Kirkland, and that he did not choose to send it through him. This letter was written at the suggestion of the fleet-surgeon, Dr. Duval, to whom I had mentioned the circumstances, and who told me I ought to write to the parents of the young man. He was a young man in whom I had taken a deep interest. This letter was returned through Surgeon Duval, who indorsed upon the back of the letter these facts over his own signature. I have the original letter with the indorsement, and I will put it in evidence. It was written several hours before the sailing of the vessel; and precisely what was meant by the reply that the admiral could not send it except through Captain Kirkland I do not understand.

Q. Were there any letters making disclaimers in respect to your testimony or making statements of the facts in respect to your imprisonment returned to you?—A. The letter to which I have just referred entered into some details and more or less explicitly stated the fact that we were all of us innocent victims; using pretty severe language in respect to the conduct of Lopez and denouncing him as an atrocious monster. I may also state that the Spanish commodore commanding a squadron at Montevideo, wrote me a letter which was suppressed; this I know because a few days later when the admiral was absent at Buenos Ayres, a Spanish midshipman came on board to ask for an answer to it. I was sent for and spoke with him.

Q. Were the facts to which you have testified as having communicated to Surgeon Duval brought to the knowledge of the other officers of the squadron?—A. Not by me; I have no doubt they were by Surgeon Duval himself, who took an active interest in the matter. I never made any overtures to have any intercourse with any of the superior officers of the vessel.

Q. Was the course of treatment towards you changed after your interview with Surgeon Duval?—A. Not in the slightest degree; on the contrary Surgeon Duval was made to expiate his friendship for us; he was denied permission to go on shore for three weeks, (to the best of my recollection,) in consequence of the interest he had taken in us. He was the fleet-surgeon and his post was on board the *Guerriere*.

By Mr. SWANN:

Q. How did you know that fact?—A. From Surgeon Duval himself; he expressly stated that he was a sufferer in our behalf, that the admiral had refused to allow him to go on shore for three weeks, to the best of my recollection. This was while we were lying off Montevideo, as we did for nearly a month.

By Mr. ORTH:

Q. State what was done to render you comfortable, as far as your physical wants were concerned, after this.—A. Nothing whatever so far as Admiral Davis was concerned. We went on board the *Wasp* in the most pitiable condition, in the same suits of clothes which we had worn for three months, eaten by vermin, with our pants cut in two by the irons we had worn; for a day or two no movement was made to improve our wardrobe; at last I received a pair of pants from an officer, which was followed from time to time by other articles of clothing from others until I succeeded in effecting a complete change of wardrobe.

Q. Who were the officers who furnished you these articles?—A. I cannot remember all of them; one gentleman, I think, was Surgeon Gale. Another addition to my wardrobe was sent to me anonymously, from one of the officers of the deck who did not send his name, and I never knew who he was; probably the cause of not sending his name was that he did not wish to be known as favoring us.

Q. Did you receive any attentions, or clothing, or suitable food from any of the principal officers on board the vessel?—A. No, sir; I did not.

Q. Did you receive any visits from any of them?—A. I never received a visit from any of them; I had on two or three occasions conversations with Captain Woolsey, of the *Guerriere*, after I was transferred to the flag-ship, upon his sending for me. I never spoke with Captain Kirkland after the first occasion when he received us on board the *Wasp*; I never spoke to Fleet Captain Ramsay at all. Captain Woolsey called for me on three or four occasions, in the first instance a day or two after going on board. He asked me if I wished to go to the United States as soon as possible or whether I preferred to remain on board the squadron until I should hear from the United States. He said in case I wished to remain he would give me a ration and give me employment so that I could earn something; he asked me, as I remember, if I understood drawing.

I replied that I had not been informed as to my status and that I could not answer the question immediately. I asked if I would be allowed to communicate with the shore, or to go on shore in that case. He said I would not. This was a day or two after being on board and before being placed the second time under arrest. I then requested a short time to think of it. The alternative was this: I had a good many friends in Montevideo and Buenos Ayres; I had some pecuniary interest in both places; it was of the greatest importance to set myself right in both places as soon as possible. If I could have gone on shore I would have preferred to have done so and to have remained there for some time, but not being allowed that I determined to go to the United States as soon as possible; when, to my surprise, I was a second time put under arrest. This of course obviated all necessity for an answer on my part. On another occasion, after being put under arrest, he sent for me to say something in respect to the transmission of the letters I had written. I do not remember that interview particularly; it involved nothing of importance. I wish to say that Captain Woolsey treated me with as much kindness as appeared to be consistent with obeying the orders of Admiral Davis. He held as little intercourse with us as possible, but he did not treat me with any disrespect. I considered his offer that I would be allowed to remain there and that he would give me employment, as an indication of kindness on his part.

Q. What difference was there, if any, between the treatment of yourself and of Mr. Masterman?—A. Only this, that Mr. Masterman was released from surveillance, having given his parole not to communicate with persons on shore.

Q. What time did you arrive at Rio?—A. We arrived at Rio the 21st or 22d of January. I think the 21st.

Q. And this guard placed over you at Montevideo was withdrawn?—A. It was withdrawn a few hours after we had sailed, but was put on again immediately after our arrival in the harbor of Rio Janeiro; the passage having occupied five or six days.

Q. Did you at any time communicate with Admiral Davis?—A. I did; on the 25th of January, I think; at all events it was four or five days after our arrival at Rio. It had been published in the papers that Bliss and Masterman were on board the American squadron as prisoners, not allowed to communicate with any one on the shore, and were on their way to the United States to be tried by their government. The same statement had appeared in the papers of Buenos Ayres while we were there. Two or three days after our arrival at Rio, my friend George M. Davis, a merchant at Rio and formerly attache of the American legation in Brazil at the same time I was connected with that legation as private secretary to General Webb, seeing this statement in the newspapers on my arrival, of my being a prisoner on board not allowed to communicate with any one on shore, determined to make an effort to see me. He went on board, saw Admiral Davis, and asked if he could see his friend Bliss. I give the conversation as stated to me by Mr. Davis. The Admiral replied, "What! is Bliss your friend?" "Yes," he said. "What do you know about him?" "I know *all* about him." "Tell me something about him." Mr. Davis thereupon narrated the principal facts connected with my coming to South America, and his own intercourse with me. He vouched for my being a person of good character and of literary attainments, mentioned my having been formerly well acquainted with the Emperor of Brazil, that I had been on such terms with him that on visiting him he would walk up and down the corridor of his palace with me in conversation about individuals and about scientific matters. This information opened the eyes of the admiral somewhat. The consequence was that within half an hour afterwards, and while Mr. Davis was still in conversation with me, word came from the admiral that I was relieved from arrest. This was two or three days previous to my embarking for the United States.

Q. Did the admiral seek a personal interview with you after this?—A. He did; on the 25th of January, the day previous to my embarking for the United States. Being then at liberty to communicate with whoever I chose, I communicated with the steward of the admiral, a person who had formerly done some errands for me on shore, and made some purchases for me. I had received at Buenos Ayres some effects belonging to me which had remained on deposit at Buenos Ayres all the time I had been in Paraguay. They came off in a bundle and a box in a very dilapidated state. I desired to pack them up in a more convenient form before going on board the merchant steamer. I therefore asked the steward to buy me a trunk on shore, giving him the money for it and mentioning several articles which I desired him to get. The admiral sent for me and met me in the gangway rather abruptly with the question put, "Did you ask my steward to buy you a trunk and other things?" I said, "Yes, sir." "Are there any other things you want to have bought?" I said, "Yes; there are several other things I would like to procure, but that as the time was so limited before sailing I should have to forego getting them." "What is it you want to procure?" Said I, "Among other things I wish to procure some publications. I was formerly interested in the Brazilian Geographical and Historical Institute, I wish to get a set of the publications of that society if possible and several other publications relating to the war and so forth, and to buy a number of books of a miscellaneous character, in connection with my studies in regard to South America." He then made one or two observa-

tions as to the places where these publications could probably be obtained, mentioned to me a bookseller of whom I could very likely get them, and remarked, "Would you not like to go on shore yourself?" I said, "I should like to go very much." He said, "Come and see me to-morrow morning after breakfast and I will see about it." I then left; having no further conversation than I have related until the next morning after breakfast. About nine o'clock I went up to the Admiral's reception room. He came in there. Neither on this occasion nor on the previous one did he shake hands or pass any salutation—simply proceeding to business. He now said, "Well, you have come to see about going on shore, have you?" I said, "Yes, sir." He said, "Speak to the officer on deck. There will be a boat going ashore at (such) an hour." Mentioning, I think, half-past nine or thereabouts. "The steam launch will leave the vessel to take you on board the merchant steamer shortly after one o'clock. Don't fail to be here then." I then went on shore, arriving about ten o'clock and got back promptly at one. I had less than three hours on shore; during which time I had only opportunity to see two or three out of a large number of acquaintances. I saw Mr. Milford, a merchant there, who is an old friend. I saw the chargé d'affaires, Mr. Lidgerwood, and also Dr. Rainey, an American, who is at the head of a ferry-boat enterprise. To all these gentlemen I made free communication as to what had passed on board the squadron in regard to myself, as to my sufferings in Paraguay, and my innocence of the charges against me, also respecting American citizens who still remained in Paraguay in prison. They expressed themselves astounded as to the conduct of the admiral and completely unable to discover why he should have acted as he did towards Mr. Masterman and myself. A little after one o'clock I was called for very suddenly and came on board the steam-launch which was to take me to the mail steamer. I was hurried off without an opportunity of taking leave of my friends. The officer on deck saying to me, "I will make your adieux for you. You need not trouble yourself about that." I was in the forward part of the vessel sitting talking with a friend when word came to me that the launch was ready and that I must go right off now. Surprised in that way I had no time to bid good-bye to any friends on board. One other thing I should have stated. A day or two before embarking for Rio I received a note from Admiral Davis, which was published in these documents, requesting me to take passage on board the United States mail steamer Mississippi to New York, and to communicate my arrival there to the State Department. I replied by a letter, which is also published in these documents, stating that I accepted his proposition and that I would report in person to the State Department, as in duty bound, being a member of the late American legation at Paraguay. No promise was exacted of me as to my conduct while on board the mail steamer Mississippi, and I made no promise. I went on shore at every point where the steamer touched, at Bahia, at Pernambuco, at Pará, and at St. Thomas, and communicated with persons on shore at all these places.

By the CHAIRMAN:

Q. Where did you part with the naval authorities, Admiral Davis, and others?—A. I never parted at all with them. I left the ship in the bay at Rio under the circumstances I have mentioned. The consuls whom I saw at the ports at which the merchant steamer stopped were all of them eager to get information from me, and expressed their astonishment at the conduct of Admiral Davis. They urged me to press upon our government a full investigation of all the circumstances, which I promised I would do. The consul at Pará, Mr. Bond, was an old acquaintance, who came out in the same steamer with Mr. Washburn and myself eight years ago. At his request I wrote a letter, giving the principal points of my history. He said it was most important that I should define my position more authentically than I had been led to do on board the squadron; that the officers of the squadron were against me; that I might die on board the steamer before reaching the United States; and that I ought to put on record whatever statement I had to make. At his request, I wrote him a letter, which I authorized him to publish, as he said was his intention, in which I stated to him that all the confessions of mine which had been given to the world were extorted from me under the circumstances which I have previously stated to this committee, and were all untrue. I left that paper in his hands for publication in the Pará papers. I also, while on board the Guerriere—a fact which I omitted to state before in its proper place—had a long conversation with Fleet Surgeon Duval, to whom I communicated full particulars of all these circumstances, and he embodied them in a great measure in letters to other parties in Washington, in view of the fact that in case I should die on the passage, as perhaps was not improbable at that time, my statements might be known.

Q. Have you had any communication with these naval officers since that time?—A. None whatever.

Q. Nor with the Navy Department?—A. I have been at the Navy Department. I was there a day or two before the change of administration, and called upon Secretary Welles, whom I had known in this city eight years ago as a friend. I was at that time misinformed as to the circumstances of the case. If I had been as fully informed as I am now, I should not have called upon him, but I had merely seen a letter in which Secretary Welles had requested the admiral to proceed with the fleet under his command

to Paraguay, as suggested in the letter of the Secretary of State. I supposed the conduct of Admiral Davis could not at all be attributed to Secretary Welles, but that the conduct of the Secretary had been such as should be perfectly satisfactory to me. I have since seen season to change my opinion in regard to that. I called upon Secretary Welles and expressed my thanks to him for having given these orders. I also called upon Commodore Thornton Jenkins, the chief of the Navigation Bureau, whose name had been mentioned by Surgeon Duval as a friend. There was nothing of importance in any interview I had at the Navy Department. And I have had no other communication with any other person in that department.

Q. Did Secretary Welles make any remark to you?—A. Nothing, except of the briefest character. I simply told him that I thanked him for giving these orders; and upon his part he congratulated me for having escaped from imprisonment.

By Mr. ORTH:

Q. To what circumstances do you allude, which if you had known, would have prevented you from calling upon him?—A. In the first place, I have seen documents signed by Secretary Welles, in which it is my opinion he did not show a sufficient interest in the vindication of the honor of the flag, nor a sufficient sense of the indignity suffered by the American legation in Paraguay. He seems to have shown a readiness to accept the reports of Admiral Davis without any question, when they ought to have been more carefully scrutinized.

By the CHAIRMAN:

Q. What communications were these?—A. I refer to letters of Secretary Welles to Admiral Davis, which are published in these documents, and to the impression left upon my mind by the reading of these letters. I have no information outside of that.

Q. Then the impressions you received of that character came from documents which are before the committee?—A. Yes, sir. I have no private information from any source on that subject. I judge only from the published documents.

Q. What was your first communication with the government in Washington, and the first steps you took to make known your complaints?—A. I arrived here in Washington on the 25th of February, and the same day wrote a letter to Secretary Seward, inclosing a copy of Admiral Davis's letter to me, stating that "in conformity with the request of Admiral Davis, and as a member of the late American legation in Paraguay, I beg to report my presence in Washington, at the Ebbitt House," and that I waited his further orders. Two or three days later I received a reply from Secretary Seward, in which he used this expression: "The executive government of the United States does not claim to exercise any control over you in consequence of the proceedings of Rear-Admiral Davis, referred to. I shall, however, be happy to receive from you, or from Mr. Masterman, or both of you, any information, either verbally or by writing, in relation to the interesting events with which your names had been connected, and would therefore suggest to-morrow, March 1, at 12 o'clock, for you to call upon me." Mr. Masterman and myself called upon him that day; found him busy, and repeated the call separately. Two days subsequently to that I saw Mr. Seward myself alone, and had a short interview with him of a few moments in length, which was confined to congratulation on his part on my escape from Paraguay. In reference to information about what I had experienced he remarked that he was soon going out of office, and it would be well to submit a statement to the legal officer of the department. Mr. Seward asking me if I had seen him, I said I had not. He then called a messenger, and I was shown to the office of Mr. E. Peshine Smith, with whom I had an interview.

Q. Has the letter of Mr. Seward to you been communicated to the committee?—A. It has not. But if desired, I will endeavor to communicate it to-morrow. Upon that I made my appeal to Congress. I did not go into the details of my experience in Paraguay at the suggestion of Mr. Seward.

Q. Was any suggestion made as to any reparation to which you might be entitled?—A. I was referred to Mr. Smith, whose name appears on the official register as examiner of claims, and I inferred that the supposition of the Secretary was that I wished to put in a pecuniary claim. Mr. Smith seemed evidently to take the same view of the matter, as he took the case up in an exceedingly legal and technical manner, cross-questioning me in my interview with him as if he was an attorney on the opposite side and was retained in order not to admit any claim unless he considered it perfectly on the square.

By Mr. SWANN:

Q. Did you make any claim?—A. I made no pecuniary claim, neither then nor at any subsequent time. In my petition to Congress I have expressly avoided that. I have left the whole matter to the wisdom of Congress for such action as in their view the honor of the government and justice to us as petitioners may demand, and shall be satisfied with such conclusion as Congress may arrive at.

WASHINGTON, D. C., April 27, 1869.

PORTER C. BLISS appeared and continued his statement as follows:

In addition to the letters to which I yesterday referred, I have here two letters written by me to my parents and published by them in a New York paper. They were written in view of my expected imprisonment and forwarded by Mr. Washburn to my parents and by them sent to this paper. The following are the letters, prefaced by editorial comment:

[From the Fredonia Censor.]

"THE PARAGUAY CAPTIVES—LETTERS FROM PORTER C. BLISS.

"We received last week a letter from a brother of our friend Bliss inclosing copies of his last two letters to his parents. They reveal a sad state of affairs in that distracted country. It will be seen that Mr. Washburn has done all in his power to save Mr. Bliss and his companion from the terrible doom that was apprehended. He left them to their sad fate at the latest possible moment, and then only to hasten communication with his government, in order to afford relief if possible. The four vessels of war dispatched to their relief are now on their errand of duty. It will be the prayer of every friend of humanity, and particularly of the unfortunate sufferers, that the errand may not fail of accomplishment.

"The last time we met our friend was in Washington, he was waiting at the White House for an introduction to President Lincoln, from whom he expected an appointment to an Indian agency. Senator Sumner was there to introduce him and secure the appointment. His father being a missionary to the Indians, and he acquainted with their dialects, he was being sent out to rescue the traditions of the former native inhabitants of New England, who had emigrated to reservations for them west of the Missouri. He had letters of recommendation from Everett, Bancroft, Longfellow, and many other distinguished literary men, to whom he had rendered efficient aid in his researches in New England and the Canadas, and also from every United States senator and many other public men. His modest demeanor, amiable disposition, high classical attainments for one of his years, and insatiable thirst for knowledge, had marked him as a young man of unusual promise. He was evidently so regarded by the *savans* who sought for him the opportunity to pursue his researches among the red men of the forest. The difficulties in which the nation became involved changed his course to a South American field. It is very sad that a young man of his promise should be cut off in the vigor of his youth, and in the midst of his aspirations for usefulness. May Heaven guard him from such an untimely fate.

"We give below the letter of the brother, which will explain the circumstances under which the letters from Porter were written:

"ONOVILLE, Cattaraugus County, November 23, 1868.

"EDS. CENSOR: Inclosed I send you two copies of letters written to us by my brother, Porter C. Bliss, arrested by the Paraguay government, and as we fear, executed ere this. Mr. Washburn, in his letter, expresses no hope for him. We have received three newspapers from Buenos Ayres, containing correspondence between Washburn and Lopez, and three letters from Porter to different parties; one of which was handed to Washburn after he had embarked for home, which was written after he had been arrested, and in all probability subjected to torture. Nothing in that letter has any weight with us, if, indeed, it was genuine. The allusion to his father, "Henry Bliss, of New York," was fictitious, as we have no relatives of that name. In his letter to us, (which he expected would be the last he would ever write,) he declares solemnly his innocence and entire ignorance of any such plot as charged against him. He, I think, has sent you one or two letters from South America at different times. As he prepared for college at your academy and has many friends there, he requested me to send a portion of his letter to you for publication in case we hear of his death. We still have some hope, but I thought it might be well to send it. His fate has been a sad one. With an excellent education—being master of eight or ten different languages, and having gained a vast amount of useful information in his travels, and with an unconquerable thirst for knowledge, and ambitious to make his mark in the world, a life of great promise of usefulness will have been cut off, a sacrifice to the ferocity of a cowardly despot, who is described as being a second Nero or Dionysius, who has executed two of his own brothers, and whose mother and sister, according to Mr. Washburn, would be glad to hear of his death. But my brother's death will not be in vain, I hope; and I feel certain that our government (in whose service I spent three years) will demand and enforce reparation so far as it can be done.

"Yours, respectfully,

"ASHER BLISS, JR."

"The following are the letters received from Porter:

"LEGATION OF THE UNITED STATES,
"Asuncion, September 5, 1868.

"DEAR PARENTS AND BROTHERS:—I received your letter in May last, and answered it in June, not doubting that a few months more would enable me to return home from my long wanderings, and again behold the faces of my kindred. Now that hope is indefinitely postponed—perhaps forever. You will probably have learned by the press the strange events which have passed here; events deeply compromising the honor of our government, outraged in the person of its ministers and the members of its legation, of whom I am one. In brief, the greater part of the foreign residents in Paraguay are charged with having formed a conspiracy against the government and even against the life of President Lopez, and were arrested on or about July 13, since which time their trial has been going on; but as the proceedings are secret and no communication with any of them allowed, the result is not yet known. At the same time almost all the members of the government were imprisoned upon a like charge, and many, perhaps all, of them paid the penalty with their lives during the first week of August. Great efforts have been made by the government to implicate Mr. Washburn in the alleged plot by means of false testimony, said to have been deposed by the principal personages accused, and I myself, though a member of the American legation, in which I am translator, have been, along with the physician to the legation, an English gentleman named Masterman, charged with what the Paraguayan tribunal calls *high treason*. We have been six or seven times imperatively demanded for trial by this government, and, as Mr. Washburn has constantly asserted the undoubted rights and immunities of legations in our favor, they have threatened more than a month since to take us by force.

"Eight weeks of alternate hope and fear have passed, which have been filled up by a voluminous correspondence between Mr. Washburn and the government, which has been published in the official newspapers. Three days since, Mr. Washburn received notice of the arrival in the river of the United States gunboat Wasp, which has come to take away the American legation, and this morning he has received his passports. But the government of Paraguay has refused passports to Mr. Masterman and myself, denying that we were members of the legation. We have had no news or dispatches from the States for 12 months, and are absolutely ignorant of all that has passed, except by one or two private letters. Mr. Washburn will embark this afternoon upon a Paraguay steamer to proceed down the river to meet the Wasp, and immediately after Mr. Masterman and myself will be seized, and shall sleep to-night in prison.

"It is unnecessary for me to say that I am entirely innocent, and that I know absolutely nothing of such a plot. False witness has undoubtedly been produced against me, and my innocence is no guarantee against a traitor's doom. I will hope for the best, but I am prepared for the worst. I thank God that I have had sufficient strength to bear up under these weeks of agony, and I am assured that I shall do so until the last; and should it come to that extremity, I am, in the words of Bryant—

"Sustained and soothed
By an unflinching trust, approach my grave,
Like one who wraps the drapery of his couch
About him, and lies down to pleasant dreams."

"I have had great projects for the benefit of humanity and the cause of the diffusion of knowledge among men, and I am confident that if my life is now spared it will not be a useless one to the world. But God knows best what purposes he has designed that I should subserve in my life or my death. His will be done!

"PORTER CORNELIUS BLISS."

"ASUNCION, September 10, 1868.

"DEAR PARENTS:—Mr. Washburn's departure having been unexpectedly postponed until to-day, I add a postscript to my letter of the 5th. Every conceivable obstacle has been put in Mr. Washburn's way by the government. He has been detained on the plea of returning deposits of property made with him by many foreigners, and also by difficulties concerning the carrying away of money for foreigners. But the Italian consul having received everything in deposit, there will probably be no further delay. I think I mentioned before that this legation has been surrounded night and day for two months by about 20 soldiers in order to seize upon Masterman and myself should we go outside, and who will take us in the street when we start out to accompany Mr. Washburn and family to embark. We each of us carry with us a satchel with a few changes of linen, some bread, some money for our expenses in prison, and a few other articles of first necessity. No cutting instruments are allowed, consequently we shall have to eat with spoons. No books will probably be permitted, however we shall each take a pocket Bible at a venture. Our confinement will be solitary, and our treatment and fare none

has been very busily at work in his favorite line of antiquarian and historic research in addition to his official and business engagements, of which a voluminous history of Paraguay is one of the fruits. How he became connected with the Washburn ministry we know not, nor what apparent ground there may have been for any accusation against him by the Lopez government; but no one who ever knew him well could 'entertain an idea,' as he himself expresses it, of his ever being accused of high treason by any government under the sun.

"In view of these personal characteristics of Mr. Bliss, as well as for the honor of the nation, it is to be hoped that the authorities at Washington will adopt—if they have not already done this—the most rigorous measures to secure the release of Mr. Bliss and his colleague, and the most ample reparation possible for this individual and national insult.

"Yours, &c.,

"D. J. PRATT."

I also present the following letters which have not heretofore been published:

"DEPARTMENT OF STATE,
"Washington, February 8, 1869.

"DEAR SIR: I have received the letter of the 28th ultimo, addressed to you by Mr Asher Bliss, on the subject of his brother, Porter C. Bliss, on which you have indorsed a request for information. I am not aware that the latter gentleman has reached Washington or has returned to the United States. We have received voluminous documents from the Paraguayan government, upon which it bases its charge against him of conspiracy. These documents have just been translated, and will at once be submitted to Congress. As yet, it has been impracticable to examine them sufficiently to allow an opinion to be formed how far the charge may be sustained. It is, however, supposed that there can be no cause to apprehend a further restraint upon the liberty of Mr. Bliss, at least after he shall have returned to the United States.

"I have the honor to be, dear sir, your very obedient servant,

"WILLIAM H. SEWARD.

"Hon. H. VAN AERNAM,
"House of Representatives."

"DEPARTMENT OF STATE,
"Washington, December 3, 1868.

"SIR: Your letter of the 21st ultimo has been received, and in reply I have to state that Mr. Washburn, late minister to Paraguay, has reported to this department, in a communication dated September 26, that two members of his legation, Messrs. Bliss and Masterman, were seized by order of President Lopez at the moment of their starting to accompany him to the United States steamer at the time of his departure.

"Mr. McMahon, recently commissioned as minister to Paraguay, from Montevideo, on the 26th of October, informs the department that on the next day he would start for Villetta, headquarters of President Lopez, with Admiral Davis and his squadron, for the purpose of exacting such reparation from President Lopez as the honor and dignity of the government of the United States may require.

"In conclusion, he says that from information he is led to indulge the hope that the gentlemen seized, as stated above, had suffered no personal discomforts other than the detention, and that they will soon be restored to the protection of the national flag.

"I am, sir, your obedient servant,

"WILLIAM H. SEWARD.

"Rev. ASHER BLISS,
"Onoville, Cataraugus County, N. Y."

"EBBITT HOUSE,
"Washington, February 25, 1869.

"SIR: In compliance with the written request of Admiral C. H. Davis, commanding South Atlantic squadron, I beg to report that I have to-day arrived in Washington, from Rio Janeiro, by the United States mail steamship Mississippi, and await your excellency's orders. My companion in imprisonment in Paraguay, Mr. G. F. Masterman, is also here, at the same address, with a similar object. I beg to inclose a copy of the communication of Admiral Davis, to which I have referred;

"And am, with great respect, your excellency's obedient servant,

"PORTER C. BLISS.

"Hon. WM. H. SEWARD,
"Secretary of State."

By the CHAIRMAN:

Q. Have you stated to the committee why it was that Mr. Washburn left you in this condition, and why the naval officer departed without taking more active measures to have Mr. Masterman and yourself delivered over to them?—A. Perhaps not fully. The reasons were, in the first place, because Lopez had refused to give us passports; and, secondly, because we were not permitted to embark. The steamer on which Mr. Washburn embarked was not an American steamer. The Wasp was three miles below in the river, below the Paraguayan batteries, and was not allowed to come higher up. If the United States gunboat Wasp had made any demonstration at that time for the purpose of obtaining our persons she would have been fired on by the Paraguayan batteries. Consequently I do not charge the captain of the Wasp with any dereliction of duty on that occasion.

Q. Was the separation of three miles from Asuncion any reason for his leaving you there in prison?—A. The question is, what could he have done? I do not see that he could have done anything to save me on that occasion.

Q. Did he make any protest?—A. He did not. Mr. Washburn did. Captain Kirkland saw Lopez personally after Mr. Washburn had embarked on board, but to the best of my knowledge made no protest and no demand for our release. That, I think, he ought to have done.

Q. Was there any conversation upon this point; or are there any facts in your knowledge why he left the post three miles below Asuncion, and why he did not break through the blockade, if necessary, for the purpose of procuring your release?—A. He made no demonstration of that kind whatever; and personally, the captain of the Wasp, Lieutenant Commander Kirkland, took no steps for our release on that occasion. He saw President Lopez the day following the embarkation of Mr. Washburn, according to his report to the Navy Department. But he does not appear to have made any allusion whatever to our imprisonment by Lopez. Mr. Washburn did make a strong protest, in which he declared that Lopez had put himself beyond the pale of international law by this act. Captain Kirkland, in his report to the Navy Department, makes not even any allusion to the fact that two members of the American legation had remained behind, as you will see by reference to the original document, which has been published. I also refer to Admiral Davis's letter to the Navy Department relating to the same circumstances.

Q. There appears in the published documents a letter purporting to be written by yourself to Captain Kirkland; will you explain that letter?—A. I have already, in my testimony, explained fully the circumstances of writing that letter, as well as one to my parents and one to Mr. Washburn; that I was forced to write them both, and that they made me write one of them five times over before I satisfied them. The papers which in one of those letters I am made to demand of Captain Kirkland were the history of Paraguay, which I had written while in the service of Lopez, and which I incorrectly described in the letter. Mr. Washburn understood the inaccuracy of the description and properly interpreted the letter when he saw it.

Q. Did Lopez want to suppress that document?—A. He wanted to suppress it.

Q. The letter also demands the detention of the Wasp. Were you satisfied with the Wasp's departure under the circumstances?—A. I had no communication whatever with the commander of the Wasp. I had received not a word of news outside of Paraguay, except one private letter. For a very long time I was in entire ignorance of the circumstances of the case, and could not judge whether it was the duty of Commander Kirkland to take such steps or not. The letter there published was just what I was compelled to write by the priests composing the tribunal, as also the accompanying letter, which, as I have said, I re-wrote five times before it satisfied them as a whole.

Testimony of George W. Gale.

NEW YORK, October 25, 1869.

GEORGE W. GALE sworn and examined.

By Mr. ORTH:

Question. State your name, age, residence, and occupation.—Answer. George W. Gale; age, twenty-nine years; occupation, physician and surgeon; residence, Exeter, New Hampshire.

Q. Were you at any time, and if so, between what periods, connected with the United States Navy?—A. I joined the navy in April, 1862, as acting assistant surgeon; was afterward promoted to passed assistant surgeon, and remained in the service until about two months ago.

Q. When did you join the Wasp?—A. In August, 1865, in Philadelphia, and remained attached to it until January, 1869.

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Q. To what squadron was the Wasp attached?—A. To the South Atlantic squadron.

Q. Where was she stationed, and where did she cruise during the time you were connected with her?—A. She was stationed, most of the time I was attached to her, at Montevideo. She made three or four trips up the Paraguay River.

Q. In what year?—A. In 1868.

Q. How far up the Paraguay did she go?—A. A little above Villeta; that is the furthestmost point we reached on the Paraguay.

Q. Who was in command of the Wasp at the time?—A. Commander W. A. Kirkland.

Q. What did you understand to be the object in making these trips?—A. I understood we went up there to bring down our minister, Mr. Washburn, who was confined there; also to bring down Messrs. Bliss and Masterman.

Q. Did she make any other trips up the Paraguay than for these two purposes?—A. Yes, sir; she carried up Minister McMahon. The first time we went up was to communicate with our minister, Mr. Washburn, and deliver some official dispatches, as I understood. I remember we went up there, and, with a great deal of difficulty, Captain Kirkland finally communicated with Mr. Washburn. We staid there considerable time. I do not remember whether we went up expressly for Mr. Washburn or not.

Q. Did he return with the Wasp on that trip?—A. No, sir.

Q. Did you see him?—A. Yes, sir.

Q. What time was that trip made in 1868?—A. I believe it was in September.

Q. Did you meet with any obstructions going up, from the allied fleet?—A. Yes, sir; we were stopped all along at different points by orders from Lopez.

Q. I speak of obstructions by the allied fleet.—A. I remember we had difficulty with them too. They were not willing for us to pass their fleet.

Q. You say after you passed the blockade, you were retarded in your progress by orders from Lopez?—A. Yes, sir; we had some difficulty the first time in passing the Brazilian squadron.

Q. At what time did you make your second trip up the Paraguay, and for what purpose was it undertaken?—A. I do not remember dates very well; the first trip I now think was in April, and the second trip was in September.

Q. What was the object of the second trip?—A. It was for the purpose of taking Mr. Washburn out of the country if he desired to leave.

Q. At what point did you receive Mr. Washburn?—A. We received him at Villeta.

Q. On your way down did you meet with similar obstructions in consequence of orders from Lopez?—A. Yes, sir; I think we were delayed more this time than before.

Q. Did you go ashore?—A. No, sir; the admiral and the captain were the only persons I think that went ashore.

Q. Do you recollect the date of your third visit?—A. It was in the latter part of November.

Q. What was accomplished during that trip?—A. We took up Admiral Davis and the fleet captain.

Q. Did the Wasp go up alone?—A. No, sir; there were two other vessels, the Kansas and the Pawnee. We also took up Minister McMahon. The furthest points we reached were the Angostura batteries. They would not allow us to go up any further.

Q. Did you go ashore at that time?—A. No, sir.

Q. Minister McMahon was left there?—A. Yes, sir.

Q. Who did you bring back on your return?—A. We brought back Bliss and Masterman.

Q. Had you ever seen either of those parties prior to that time?—A. No, sir.

Q. Relate now the circumstances connected with Messrs. Bliss and Masterman coming aboard the Wasp; what condition they were in physically; whether they were well or otherwise; whether you treated them professionally; and any other matter connected with their condition up to the time they were transferred to another vessel.—A. They came on board about the 10th of December, in the night. I saw them the next day, I think, and found them forward on the berth deck. I understood they were under charge of the master-at-arms. I had considerable conversation with Bliss. They were in a very ragged condition and very dirty, and both were considerably debilitated. Bliss said it was caused by the barbarous and inhuman treatment they had received from Lopez, and he gave me an account of it. He complained to me of a slight pain in his abdomen and of a slight diarrhœa. I wrote out a prescription for him and gave it to the surgeon's steward. They were both in a very ragged condition, and I so informed the officers.

Q. What officers?—A. I cannot recollect any particular one now. I mentioned it to them in personal conversation—not officially. I merely mentioned it to them with the idea of getting some clothes for them. I gave the steward instructions about what he should give them as regards diet, which consisted of rice, arrowroot, and soup. The soup on the ship was very good, generally speaking. I had a number of conversations with Bliss, and one day, while talking with him in the fore-castle, I was sent for by the executive officer of the ship, Mr. Smith, and informed by him that I was not to con-

verse with them ; and he gave me to understand that they were prisoners. I told him that one of them was unwell, and that it was necessary to converse with them. I mentioned that because I knew I could not talk to prisoners.

Q. They were then treated as prisoners?—A. Yes, sir.

Q. Were they under guard?—A. They were allowed to walk on deck, both above and below. I do not know that they were confined to any particular limits.

Q. What was the condition of Masterman's health?—A. Both were very much debilitated, and looked as though they had suffered a good deal, both bodily and mentally.

Q. How long were they under treatment?—A. There was only one under treatment, and that was Bliss. I saw him every day while he was on board ship.

Q. How long was that?—A. One week.

Q. Did he improve?—A. Yes, sir ; he said he did.

Q. What was your opinion?—A. I thought he did. I did not consider him dangerously sick. He looked like a person who had suffered a great deal, and had been exposed to the sun and weather.

Q. Were they furnished with all the provisions that you prescribed for them?—A. I think they were. I heard nothing to the contrary. I gave the instructions to the steward, and I presume they were carried out.

Q. Had you all the hospital stores you desired?—A. I do not remember whether I had at that time or not. Sometimes I had not. The vessel was small, and the supplies would sometimes run out. I would often purchase articles myself. I had often great difficulty in getting my requisitions filled.

Q. At what point were these men taken from the Wasp?—A. At Montevideo.

Q. To what vessel were they taken?—A. The flag-ship *Guerriere*. While they were on board the Wasp, Captain Kirkland wished me to see Bliss and Masterman, and inquire about the manner in which they had been tortured. I saw them and they gave me a description of it.

Q. Did you make any physical examination?—A. I did not, because in questioning them they said they had no marks or scars about their persons. From what they said to me as to the manner in which they had been tortured, I knew it would not leave a scar. Bliss complained of his spine. He said his back would snap occasionally. He did not complain of it particularly as he did not require treatment on board.

Q. From what you heard in reference to this torture, what effect do you think it would produce?—A. It might produce a spinal disease, but as he was erect and walked about, I did not consider him suffering with it. It might, however, result in spinal disease eventually. The torture they endured was somewhat similar to the punishment they used to have in the navy.

Q. "The cracking of the spine?"—A. No ; the tying them down. It was not exactly the same, but it was the same style.

By Mr. WILKINSON :

Q. You say Captain Kirkland asked you to make some inquiry?—A. He did, and I made the inquiry, and told him what Bliss and Masterman told me. They spoke of different modes of torture inflicted on other persons, as pounding the fingers with mallets. I asked them if they had suffered in that way, and they said no.

By Mr. SWANN :

Q. You say they came on board in a very ragged condition, and that you made application and they were supplied with proper clothing?—Yes, sir.

Q. Where did you make application—to the admiral?—A. No, sir ; I did not get these clothes from the ship's stores, but from the officers ; I asked them personally.

Q. Did Mr. Bliss, in speaking of the tortures he had endured, request you to speak to the admiral about them?—A. No, sir ; I do not remember that he did.

Q. He had no communication with the admiral himself?—A. Not that I know of.

Q. In reference to this "cracking of the spine," if the spine had cracked so that the sound was even audible, what effect would it have had upon his system ; would it not have produced results that might have been fatal to him?—A. He might have had a slight cracking of that description and it not have been fatal.

Q. In what condition did you find the spine?—A. He did not complain of his spine. He only complained of a slight pain in his abdomen.

Q. Was that pain in the abdomen produced by the torture or by disease?—A. I think it must have been produced by the water he drank on shore. He seemed to complain more of the torture, however, than anything else.

Q. In your observation and treatment of the prisoners, what was your impression about their treatment ; were they treated with humanity and kindness on board the ship?—A. I saw nothing inhuman about it.

Q. No guard was placed over them?—A. They were in charge of the master-at-arms.

Q. They were allowed freedom of the decks?—A. Yes, sir ; I have seen them walking about.

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Q. Both fore and aft?—A. I do not remember that.

Q. Did they have any conversation with any of the officers besides yourself?—A. I think I was the only officer of the ship that had any conversation with them.

Q. Had they rations regularly distributed to them?—A. I always thought so. I never heard of any difficulty about it.

Q. Where did they sleep?—A. They slept forward.

Q. Were their rations the same as those of the men?—A. I gave them, in addition, arrowroot and rice. I ordered my steward to do it, and also saw the paymaster about it. I suppose they received it. I attended to them the same as I would any one else.

Q. You had your instructions from the admiral to do that?—A. No, sir. I did that of myself. If they wanted anything they spoke to me. Once Bliss wanted writing paper, which I furnished him. I also gave him some reading matter, papers, &c. The admiral gave me some newspapers also, which I handed them.

Q. Were there any attempts to communicate with them by outside parties, that you knew of, while they were on board?—A. Not that I know of.

Q. From the description that Mr. Bliss gave you of his situation, and the torture to which he had been subjected, did he make out a case that made such an impression upon your mind that you thought it ought to be communicated to the admiral, so as to put him in possession of all the facts?—A. I did not think of that, because the admiral was on board himself, and we had Minister McMahon also, and other officers of superior rank to myself. I presumed they would attend to it.

Q. Did it make that impression upon you that in your judgment the admiral ought to know the situation of these men?—A. I explained to Captain Kirkland the treatment and torture they had endured, and I suppose the admiral knew it.

Q. Captain Kirkland was captain of the deck?—A. Yes, sir; he had command of the ship.

Q. Were these men permitted to communicate with the men on board?—A. I do not remember whether they were or not.

Q. They were held as prisoners?—A. I considered that they were prisoners.

By Mr. WILLARD :

Q. You say that Captain Kirkland requested you to inquire of Mr. Bliss about this torture?—A. He did, and I made known to the captain the result. I think the admiral was present when I reported it to the captain.

Q. How long after he was taken on board was that?—A. About a day or two, I think.

Q. What effect did the story you told have on these officers?—A. I do not know. I did not see any effect. They were not in the habit of informing me of their opinion on all points; but as regards the other officers, they considered Lopez an inhuman and barbarous person for treating them in this manner.

Q. After you communicated this story about their torture and treatment to the admiral and captain, did it change the relations of Bliss and Masterman on the vessel?—A. I did not notice any change. There might have been some change a day or two before we reached Montevideo. I do not remember now.

By Mr. SWANN :

Q. Did you know anything about Bliss or Masterman; had you been previously acquainted with them, or known anything of their personal history?—A. No, sir.

Q. They came to you as strangers?—A. Yes, sir.

By Mr. WILKINSON :

Q. Did the stories of Bliss and Masterman agree, in their main facts, with each other?—A. Yes, sir; that is my impression.

By Mr. ORTH :

Q. What was the state of Mrs. Washburn's health at the time you saw her in September?—A. It was not very good. I prescribed for her several times while she was on board the ship.

Q. Was her illness of a nervous character?—A. Yes, sir. She was confined to her cabin part of the time. I heard she was sick afterward in Buenos Ayres.

Q. What length of time was required to run down from the point where you received Mr. and Mrs. Washburn to Montevideo?—A. About a week, I should judge. It would take longer to go up the river.

Q. Did the admiral, or General McMahon, or any of the higher officers endeavor to ascertain anything of the condition of Bliss and Masterman, or obtain any statements from them?—A. Not that I know. I probably would not know it if they had. It would be mere accident if I did.

By Mr. WILLARD :

Q. Did Bliss ever complain to you that he did not receive the rice and arrow-root you say you ordered?—A. I do not remember that he ever did.

Q. Have you read the testimony he gave before this committee?—A. I did not see it until yesterday, and was very much surprised at the nature of it. Bliss always expressed himself very grateful to me, and just before he left the ship he presented me with a copy of his book.

Q. You say you gave him everything an invalid would require?—A. Yes, sir. I treated him the same as I would anybody else under my care.

Q. Did you see that your orders to the steward were obeyed?—A. I had no reason to believe that they were not. He was a very faithful man, and had been long in the service.

Q. Did you not think that the prejudices against these men among the higher officers of the ship would thwart your intentions?—A. It did not occur to me at the time. They did not complain to me then, and Bliss, on leaving the ship, thanked me for my kindness to him. I gave them everything I thought was necessary.

Q. What was the deportment of these men on board the Wasp; how did they conduct themselves?—A. In a very proper manner. I heard of no disturbance or complaint from them.

Q. You saw no collisions between these men and the ship's crew?—A. No, sir.

Q. Nor did you hear any taunts, or anything calculated to make them feel unpleasant?—A. No, sir.

Q. Did they have marks of fetters on their clothes or ankles?—A. When I inquired of them about the torture, I asked if there were any marks or scars about their persons, and they said there were not. I, therefore, did not examine them. Their pants were very ragged, and the lower part of them had the appearance of being torn and worn by fetters. I spoke to the officers about their ragged condition in order to get some old clothes for their use, but I afterward found that Bliss had a change of clothes in his valise on board the ship.

Q. The treatment that Bliss and Masterman received on board the ship was not such as attachés of legation should receive?—A. I should think not.

Q. How long was that trip, from the time these men were received on board until you reached Montevideo?—A. About a week.

Testimony of L. C. Carpenter.

NEW YORK, October 25, 1869.

LAWRENCE C. CARPENTER sworn and examined.

By Mr. ORTH:

Question. State your name and residence.—Answer. Luther C. Carpenter; I live in Washington City.

Q. What is your occupation?—A. A soldier.

Q. Were you at any time connected with the American navy; and if so, when?—A. I was sergeant of marines. I served two enlistments—eight years altogether. My last enlistment was from the 29th of September, 1865, to the 29th of September, 1869.

Q. Upon what vessel or vessels were you during that time?—A. I was at first on board the Chattanooga, afterward transferred to the Sacramento, and afterward to the Guerriere.

Q. At what time were you transferred to the Guerriere?—A. I think the 17th of June, 1867, and remained until the 13th April, 1869.

Q. Where was the Guerriere in the fall of 1868?—A. She left Rio for Montevideo under the command of Captain M. B. Woolsey. Rear-Admiral Davis was flag-officer.

Q. Do you know, or have you ever met, Bliss and Masterman?—A. I had them in charge. We received them from the Wasp at Montevideo, and took them to Rio.

Q. What time was that?—A. It was somewhere about Christmas day, 1868.

Q. How long were they under your charge?—A. They were under my charge for one week.

Q. What do you mean by saying they were under your charge?—A. They were put under my charge, as I understood, as prisoners.

Q. From whom did you receive orders to take charge of them, and what were they?—A. I received orders from Captain Philip R. Fendall to take charge of them; not to allow them to hold communication with any one belonging to the ship; to allow them to hold no communication with the shore; to write no letters or send them off without being first examined by Captain Woolsey.

Q. Where did you receive these orders?—A. We were stationed at Montevideo.

Q. How long did they continue under your charge?—A. They were put under my charge at first to continue all the time, but the duty was so arduous that I complained to Captain Fendall, and he relieved me. They were then put in charge of Sergeant Call, and afterward of Sergeant Hope.

Q. Was that after you left Montevideo for Rio?—A. I could not state positively whether the ship was at sea or not.

Q. What was their condition as regards health when you first saw them?—A. They looked rather miserable, as if they had had a hard time.

Q. Were they in charge of the surgeon of the *Guerriere* after they came on board?—A. I could not state. I saw Dr. Duvall speak to them, and they inquired for him several times.

Q. Who supplied them with rations?—A. They messed in the forward mess.

Q. Were they confined to any particular part of the vessel?—A. They were confined to the steerage, but on my going with them they could go to any part of the vessel they pleased.

By Mr. WILLARD :

Q. Was this while they were in port?—A. I cannot now remember.

Q. I understand you to say that your orders were to keep them from communicating with anybody at all?—A. No, sir; it was only to keep them in sight. They were allowed to speak to anybody belonging to the ship's company, but not with the bumboatmen; that is, men who come alongside of the ship to dispose of merchandise.

Q. They were not permitted to go ashore?—A. No, sir; not during the time I had charge of them.

Q. Were they permitted to make purchases from the shore?—A. If they wanted anything from the shore, the purchases had to be made through me.

By Mr. SWANN :

Q. Was any attempt made to communicate with them while they were under your charge?—A. None at all, except by the bumboatmen who had things to dispose of.

Q. When you first received these persons, how did you take care of them?—A. I took care of them as a soldier would. I was not harsh with them any more than my orders required.

Q. You did not imprison them?—A. No, sir; Masterman was very nervous and took his imprisonment very much to heart. He used to sit in a little room a great deal and write in his private journal.

Q. Had you known either of these men previously?—A. No, sir; never saw or heard of them.

By Mr. ORTH :

Q. Did they complain to you at any time of the treatment they were receiving—as insufficient provisions, medical treatment, or anything of that kind?—A. I could not say that they did; the mess treated them very liberally. They seemed to wish to pay their way through as far as they could.

Q. Had they any money?—A. They had some. I could not say how much. If I am not mistaken, Bliss was inquiring whether he could have his passage paid home or not.

Q. Did you see them frequently after the vessel went to sea?—A. I saw them sometimes in charge of Sergeant McCall on the forecastle of the vessel.

Q. How frequently did you see them there?—A. I saw them every day or two.

Q. While they were in your charge, did they express a wish to have an interview with any of the superior officers of the ship?—A. Yes, sir; they had an interview with Captain Woolsey, and I believe one or two with Admiral Davis.

Q. Was any change made as regards the treatment of Bliss and Masterman—any difference made between them—after they had seen Admiral Davis?—A. Bliss asked for no liberties except complaining of the restraint he was under, but I believe Masterman asked for a parole, and got it. Bliss, however, was kept in charge of the non-commissioned officer all the time until we reached Rio, I think.

Q. The last you saw of them was at Rio?—A. Yes, sir; they went ashore one morning before the steamer for the United States went out and were transferred on board it.

Q. How long were they on board the *Guerriere* while she was in Rio?—A. I cannot recollect; about two or three days, I think.

By Mr. SWANN :

Q. You think that interview between Admiral Davis and Masterman took place?—A. I think that it did.

Q. You state that they were received kindly by the mess.—A. I cannot state that, because I heard bickerings, and I know that Mr. Mack, the gunner, left the mess because they were there; as also did Mr. Meagher, the carpenter.

Q. Was it owing to their ragged condition?—A. No, sir; they had been clothed by that time.

Q. Was their deportment offensive or respectful?—A. They conducted themselves gentlemanly; they both seemed to be gentlemen, so far as I could judge.

Testimony of Marius Duvall.

NEW YORK, October 25, 1869.

MARIUS DUVAL SWORN AND EXAMINED.

By Mr. ORTH:

Question. What is your occupation?—Answer. Surgeon in the United States Navy.

Q. How long have you been in the navy?—A. About twenty-seven years.

Q. What is your present position?—A. I am now on duty at the Norfolk naval hospital.

Q. What is your rank?—A. I rank with a commander. In the South Atlantic squadron I was the surgeon of the flag-ship and also surgeon of the fleet.

Q. Between what periods of time were you connected with the South Atlantic squadron?—A. Between the summers of 1867 and 1869.

Q. On board of what vessel were you at that time?—A. The flag-ship *Guerriere*.Q. Whose flag-ship was the *Guerriere*?—A. Rear-Admiral C. H. Davis.

Q. What time in 1868 did you leave Rio for Montevideo?—A. I think we left Rio somewhere about the latter part of October, 1868, and we arrived at Montevideo about November 4.

Q. What did you understand to be the object of that voyage?—A. The object of that visit, as I understood it, was to convey the new minister to Paraguay, (General McMahon,) who had a short time before arrived in Rio. We were to take him down to the La Plata, and then up the Paraguay to Asuncion, and see how matters stood there in regard to Mr. Washburn and his legation.

Q. Were you at Rio when General McMahon arrived there?—A. Yes, sir.

Q. How long was he detained there prior to his departure for Montevideo?—A. I think he arrived about the 20th of October, and the *Guerriere*, with four other vessels of the squadron, left on the 28th of October—that is the day on which the United States mail packet generally arrives.

Q. Did the admiral expect the arrival of General McMahon at Rio?—A. Not that I know of.

Q. Did Minister McMahon experience any difficulty in procuring transportation down to Montevideo on your vessel?—A. No, sir.

Q. Was there any hesitation on the part of the admiral?—A. Not that I heard of. It was the general topic of conversation on board the ship, for a little while previous, about General McMahon going in the vessel with his family, which consisted of two unmarried sisters.

Q. At what time did General McMahon arrive and take passage on the *Guerriere*?—A. I do not know exactly when he arrived, but I presume it was on the 20th.Q. What time did he go on board the *Guerriere*?—A. I do not recollect, but it must have been some days before she sailed, because he was a patient of mine, and I prescribed for him.

Q. You think you sailed about the 28th of October for Montevideo?—A. Yes, sir.

Q. What time did you arrive at Montevideo?—A. On the 3d of November, I think.

Q. Did the *Guerriere* remain at Montevideo any length of time?—A. Yes, sir; she remained until the 15th of the following January.Q. What became of General McMahon and family after you arrived at Montevideo?—A. They remained on board the *Guerriere* until, I think, a few days before General McMahon left to proceed to his post at Asuncion.Q. On what vessel did he proceed?—A. He went up in the *Wasp*. I do not recollect whether he left the harbor of Montevideo in the *Wasp*, because his sisters went up in the ordinary passenger steamer that plies between Buenos Ayres and Montevideo. The admiral also went up with Mr. McMahon in the *Wasp*.Q. Did you accompany the admiral up in the *Wasp*?—A. No, sir. On the passage down I asked the admiral for permission to accompany him up on the *Wasp*, as I always make it a point, when in a foreign country, to see as much of the country as possible. He said, "Why do you want to go?" I told him I had a new breech-loading gun, which I had purchased, and was very desirous of testing its qualities. He made me no answer then, but I afterward met him, and he told me there was no room on board the *Wasp*, and that, besides, there was a good deal of fever and ague up there. I was surprised at the admiral not letting me go, as he himself was subject to diarrhœa, and as it was such a hot climate I thought he would like to have the fleet surgeon with him.Q. Did he have any surgeon?—A. Yes, the surgeon of the *Wasp*.

Q. Did Minister McMahon experience any difficulty in procuring transportation up the Paraguay from Montevideo or Buenos Ayres?—A. I do not know.

Q. You know of no unnecessary detention there.—A. No, sir.

Q. How long after your arrival did the *Wasp* start up the Paraguay?—A. We arrived about the 3d of November, and the *Wasp* left with the admiral on the 19th, so that we were a little more than two weeks there before the admiral started.

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Q. What time did the Wasp return?—A. The Wasp returned to Montevideo on the 18th of December.

Q. Were Bliss and Masterman brought down on the Wasp at that time?—A. Yes, sir.

Q. Had you ever seen them before that time?—A. No, sir.

Q. Did you see them on board the Wasp?—A. No, sir. I saw them on board the Guerriere on the morning of the 22d of December. As soon as the admiral told me I could not go up the Paraguay with him, I accepted an invitation that had been extended to me by Mr. Bushenthal, a prominent banker, to go up on a visit with him to Cordova, and I did not get back from this visit until the 22d of December. When I got on board I learned that Bliss and Masterman were on the vessel, and I went up immediately and introduced myself to them, and from that time we had frequent intercourse.

Q. What was their condition of health when you first saw them?—A. Mr. Bliss struck me as a person who had been suffering very greatly.

Q. Physically or mentally?—A. Both; that is, as a diseased person—a person of very precarious health. I judged this from the haggard countenance, the hollow eye, the waxen condition of his ears, from his unsteady gait, and the fatigue he experienced from conversation.

Q. Did you make any physical examination?—A. I made no physical examination of Mr. Bliss, but I asked him if there were any marks on his person resulting from the treatment he received at the hands of President Lopez, but he told me he had none. He then described to me the different modes of torture, and explained to me the suffering it had produced in the bowels. But Masterman had told me it had more effect on his back from the strain it put upon the spine. I did not then examine Masterman, but afterward I had certain reasons for examining him.

Q. Did you prescribe for Mr. Bliss?—A. No, sir.

Q. At any time?—A. No, sir. I think when he first came on board Dr. Brown, the first assistant surgeon, prescribed for him. He complained of some pain in the bowels.

Q. Did you regard that pain in the bowels as the result of the torture, or was it from some disease independent of the torture?—A. I suppose it was the result, possibly, of both. The bad food, privation, and distress of mind which he suffered, together with the pent-up condition of his body, all operated to bring on this condition of his bowels.

Q. How were they received and treated on board the Guerriere—as prisoners or otherwise?—A. When they came on board the Guerriere on the 18th, the officer receiving them ordered them to be placed in the master-at-arm's mess, although both demurred to that.

Q. Why did they demur?—A. Because they thought it was not a proper place to put them. Masterman had been in the British service, and knew something of the public opinion of the service; that is, the status which every man occupies, by the place he messes in; and Masterman objected to that more particularly, he having belonged to the American legation at Asuncion. He was not content to mess with the master-at-arms. An appeal was taken to the admiral, and during the delay that occurred Captain Woolsey came out and told the executive officer to send the men off the quarter-deck into the port gangway, a greater indignity than which cannot be offered to any man on board a man-of-war. The port gangway is where all the servants, scullions, &c., congregate.

Q. Was that order carried out?—A. Yes, sir. And in due time the original order putting them in the master-at-arm's mess was countermanded, and they were put in the forward mess.

Q. How long were they kept in the port gangway?—A. About two hours. I was not on board the ship at the time, but heard it as part of the history of the transaction. The reputation which had been given these gentlemen by Lopez to the naval officers evidently preceded them, and when they were placed in the forward officers' mess one of the officers declined to appear at the table with them, on the ground that they were improper people for him to associate with.

Q. What naval officers were these?—A. Naval officers of the squadron—certain officers I will mention as I go along, because the whole contest that I had (sometimes ill-natured and sometimes pleasant) with officers was about the doctrine that these two men were criminals, and that they were damned scoundrels.

Q. With what persons did you have that controversy?—A. Well, with several gentlemen of the South Atlantic squadron. With Captain Woolsey, for instance. He did not, however, apply to them the epithet of damned scoundrel. His epithet was that of "scoundrels" or "scamps."

Q. Did you hear the admiral say anything about them?—A. No, sir. I only spoke to the admiral on one occasion after my return from Cordova.

Q. Was there any distinction made between Bliss and Masterman in their treatment on board the Guerriere; and if so, who fared the better?—A. There was a distinction made at a certain period, and of course Masterman fared the better.

Q. How was that brought about?—A. On the 18th, when these two gentlemen came

on board, and were disposed of by being located at the master-at-arms' mess, they were not put under a sentry's charge; but on the morning of the 22d, when I came over from Montevideo, after my trip to Cordova, I learned that Bliss and Masterman were on board. I also learned that two gentlemen were on board and wanted to see Mr. Bliss—one of them, Dr. Bourse, an American citizen and practicing dentist in Montevideo, and the other was Don Carlos Saguier. Don Carlos Saguier came on board to see Mr. Bliss and explain to the admiral who he was, as he thought there must be some misapprehension. Dr. Bourse merely escorted him, as he was an American, and proposed to introduce him to the officers. When they got on board, Don Carlos Saguier requested permission to see Mr. Bliss. That permission was denied. I think he made it first to the captain and then to the admiral. At any rate it was denied. Captain Ramsey told Dr. Bourse that he, (Dr. Bourse,) being a gentleman, might see Bliss, but that he would not allow Don Carlos Saguier to see him. Of course I inferred from that that Don Carlos Saguier was not a gentleman. At any rate, immediately after breakfast the officers of the ship received orders to put these two "men," as they were called, under a sentry, and not allow them to communicate with anybody on shore or write any letters. Soon after breakfast I went to see them. They seemed at first rather shy of me. I addressed them with the utmost politeness, and expressed gladness to see them. They commenced conversing with me, shyly at first, but after a while more freely, and then gave me a history of the treatment they had received from Lopez, from the moment they were arrested at the side of Mr. Washburn up to the moment I spoke to them. I was rather astonished at the account they gave me of their reception on board the Wasp. They said that as soon as they touched the decks of the Wasp, after being released by Lopez, Captain Kirkland ordered them to be placed under the master-at-arms, with orders "not to let them loaf about." Masterman protested against it, and it ended in their being sent forward. But one thing they related struck me with astonishment and amazement—that was, that Masterman, after urging Mr. Bliss a great deal to go to the officer of the deck and request an interview with General McMahon, and communicate with him all the facts in their possession, finally got him to make the request, and was put off by the officer of the deck with the remark: "Oh, we know all you have got to say." It was so much cold water thrown on Bliss's efforts. He resolved to abandon all efforts to see McMahon; but Masterman continued to urge him, knowing that Bliss was an American citizen; and finally the master-at-arms was sent in to the general, and returned with the answer that he was engaged, but would send for them whenever he wanted them. But he never did send for them, but left for Paraguay without seeing them. When they first came on board they were provided with nothing to sleep in but a bare hammock, without any clothing in it—a mere piece of canvas. Masterman had a mattress given him afterward; and on learning how it was, I furnished them with all the necessary materials to make them comfortable.

Q. Did Bliss improve rapidly after going on board the Guerriere?—A. He improved sensibly. I could see the improvement. He improved in spirits and in health; but it was not very marked or rapid. Masterman improved more rapidly, I think.

Q. Do you know whether they had any interviews with Captain Wolsey or Admiral Davis while on the passage from Montevideo, or of their desiring such interviews?—A. I do not think Mr. Bliss desired to have any interviews with anybody, but I know that Masterman formally requested an interview with Admiral Davis on the 4th of January, 1869. That request was granted, and Masterman reported to the admiral (so Masterman told me) that his position was irksome beyond endurance; that the fact of his being under charge of a sentinel was more distressing to him than he could imagine; that if he could be relieved he would give his parole not to have intercourse with anybody on shore. There was no prohibition against his having intercourse with the officers or crew of the vessel.

Q. Do you know how the admiral regarded these men; did you have any conversation with the admiral about it?—A. No, sir; not a word. I know that Admiral Davis told the consul at Rio that they were guests on board the Guerriere, and I told the consul at once that that could not be true, if there was any meaning attached to words.

By Mr. WILKINSON:

Q. Do you know about their mess bill being made out as "prisoners," that being so specified on the bill?—A. No, sir; I do not. They were prisoners evidently. It did not matter whether anybody on board the ship said they were prisoners or not. It is utterly impossible for anybody to conceive how parole does not mean imprisonment. It was probably stated in the master-at-arms' report, and not in the mess bill, that they were prisoners.

Q. By whose authority were these men sent on board the Guerriere?—A. By authority of Admiral Davis.

Q. You had no acquaintance with them before?—A. No, sir.

Q. You knew nothing of their history?—A. Oh, yes; I knew a great deal about the history of Mr. Bliss, because he had come out as private tutor with General Webb,

and I had a pretty clear conception of the nature of Mr. Bliss and his capacity, &c., from General Webb's description of him.

Q. You say you became intimate with him on board?—A. Yes; I conversed with him every day. I took great interest in their situation, and then Mr. Bliss is a man of splendid intellect, and he gave me an excellent description of Paraguay, which was comparatively an unknown country.

Q. Bliss says in his statement that "Dr. Duvall suffered for our imprisonment, for the admiral refused to allow him to go on shore for three weeks, to the best of my recollection. This was while we were lying off Montevideo." What was the cause of this difficulty between the admiral and yourself?—A. Mr. Bliss makes a mistake there as to time; it was two weeks and not three weeks. As I stated when I found I could not go up the Paraguay, I accepted this invitation of Mr. Bushenthall to go to Cordova with him, provided the admiral would give me permission. I saw the admiral and told him of the invitation that Mr. Bushenthall gave me and said to him, "Now, sir, with your permission I will make that visit," and he said, "Certainly, by all means." I then explained to Admiral Davis that I did not know the facilities of travel to Cordova; that any specified time he might give me I might overstay, as probably the journey to Cordova would be over a rough road, and I asked him if I might start on the journey with the understanding that if I was delayed two or three days it would make no difference. He said, "Certainly." I then said, "You are going to Paraguay very soon and I am not going to Cordova until the 1st of December, and I fear Captain Wolsey will not take the responsibility of allowing me to go." He said he would talk with Captain Wolsey about it. On the approach of December 1st I made out my application to Captain Wolsey, and took it to him in person, and explained to him the reason why I wanted the leave. He told me to make out the application without specifying any time, which I accordingly did, and he then granted me two leaves of one week each, one from December 1st to the 8th, and another from the 8th to the 15th. At that time I thought two weeks sufficient in which to make the journey. But Mr. Bushenthall was detained in Buenos Ayres one week on business, leaving only a week to make a journey of over five hundred miles on wagon roads. However, relying on the verbal permission of the admiral, I was under no misapprehension. I returned to the *Guerriere* on the morning of the 22d and immediately went to Captain Wolsey's cabin and sent my name in to him with a message that I was ready to report. He sent word back that he was dressing and that I could report after breakfast. Soon after reaching my room I received a message from Captain Wolsey, through an orderly, saying that he desired an explanation in writing why I had overstaid my leave or my written leave from Captain Wolsey, only extended to the 15th. I wrote him immediately, stating that Mr. Bushenthall had been detained a week in Buenos Ayres; that we had lost a day in going because of heavy rains on the Pampas; and I then stated that Admiral Davis had granted me leave to make this visit, and I presumed that permission, so granted, gave me as much time as was necessary to make the visit. A few days afterward I met Captain Wolsey and he said he had laid the whole matter before Admiral Davis. It is a regulation that when a fleet-officer gets into any difficulty the matter is to be left with the admiral. I heard nothing in regard to it for several days, and occupied myself in collecting all these accounts from Mr. Bliss and Mr. Masterman, so that I did not wish to go on shore for some time. Meanwhile Chaplain Henderson had told me that Mrs. Kellogg, widow of my predecessor, and who was an applicant for a pension, wished to see me in regard to it. As soon as I received that message I asked for permission to go on shore. That was, I think, four or five days after the 22d. I asked permission of Captain Wolsey on the quarter-deck. He told me yes, and immediately spoke up, "Doctor, this little matter between you and the admiral has not been settled yet, and I do not feel authorized to give you the leave." I said I would make written application to the admiral and call the matter up, and accordingly did so. I received no answer to this, and made a second application. To this the admiral wrote back calling my attention to a certain statement that I had made to Captain Wolsey that he (Admiral Davis) had given me permission to visit Cordova and to my note to him wherein I stated that my visit to Cordova had not been settled yet, and he said that he had no recollection of giving me such permission; that there was no record of it on the files in the fleet-office where it should be found. I immediately saw what the drift was, because the admiral might have forgotten that he had given me permission, but he could not have forgotten that there were at least thirty instances during the cruise that he had given me such permission, and there was no record on the fleet of it; and yet he springs that on me that there was no record in the fleet's office. From that moment I resolved to have nothing to do with Admiral Davis and I have not spoken to him but once after that.

Q. When did all this occur?—A. About four days after my return.

Q. Before your acquaintance with these two men, (Bliss and Masterman,) had you been posted as to what had occurred in Paraguay between them and the authorities there?—A. Yes, sir; pretty well.

Q. You knew what had taken place?—A. Yes, sir.

Q. You knew of the confession they had made before the tribunal?—A. No, sir; I did not know of that. I only knew, for instance, that they had been arrested and taken from Mr. Washburn's side. I knew they had been attached to Mr. Washburn's legation.

Q. When these two strangers came on board, and Captain Ramsay gave them permission to communicate with the American citizen, and made the remark you spoke of about the foreigner, had you any knowledge of Bliss and Masterman?—A. No, sir; I knew neither of them.

Q. Do you not suppose that the idea occurred to Captain Ramsay, at the time he made this remark, that perhaps there might be some conflict as between these gentlemen and the Paraguayan authorities?—A. I do not.

Q. That they were in complicity with the allies, and that they were desirous of communicating with these parties?—A. My impression of it was this: I had noticed all along that there was a very singular effort to stifle everything that was said against Lopez, and to parade everything that might be said against Mr. Washburn and his legation.

Q. That applied to the fleet officers?—A. No, to the officers generally, and more particularly to the admiral and Captains Ramsay and Kirkland. Don Carlos Saguier was a native of Paraguay, and formerly an officer in Lopez's army, but abandoned him because of his cruel and barbarous conduct, and was now in sympathy with the allies. I suppose it was on that account that Captain Ramsay would not allow this enemy of Lopez to communicate with Bliss; because if he gave any information about Paraguay this Don Carlos Saguier would repeat it. That, however, was a mere speculation on my part.

Q. Do you know whether Admiral Davis received any official communication from Minister McMahon at the time these prisoners went on board the *Guerriere*?—A. I do not.

Q. You do not know whether there was any explanation as to the state of things existing in Paraguay?—A. No, sir. I presume there could have been none from Bliss and Masterman. The admiral and General McMahon both declined to have any intercourse with them.

Q. How did these two gentlemen conduct themselves on board that ship?—A. They kept themselves very quiet.

Q. Did you see any evidence of unkind treatment towards them?—A. No, sir; no positive unkind treatment; it was simply neglect. I do not think anybody on board ship said a harsh word to them at any time. One or two of the forward officers and several of the midshipmen, whose location in the ship was near them, used to converse with them in, apparently, a friendly manner.

Q. Do you know whether there was any representative of the British government, such as consul, within striking distance at the time they were put aboard the ship?—A. I think there was.

Q. Did Mr. Masterman make application to the British consul?—A. Yes, sir. He showed me the letter he sent and the answer he received.

Q. What was the nature of the answer?—A. The answer was very kind, stating that he would lay the case before the American legation at Asuncion, and advising Masterman to be very patient, and to state his case to the admiral; but that he could not interfere with him.

Q. Did Masterman seem to be more dissatisfied with his treatment than Bliss?—A. He manifested it more. He seemed to feel it more. He did not manifest it in any way that I saw, except in his expressions to me, and I presume he may have done the same to others with whom he conversed. When Admiral Davis took the stand he did with me, of course I began to think quite seriously of it. But it was not until three months afterward that he ordered a court-martial. In the mean time I had continued doing duty both as fleet surgeon and surgeon of the ship. There was really but one witness before the court. It was a question of veracity between Admiral Davis and myself. He swore before the court that he gave me no leave; but fortunately, I produced a letter written by him to me, in which he particularly acknowledged that he did give me the leave. The words of that letter were: "When in familiar conversation I expressed my willingness that you should go to Cordova," &c. Upon these words I was acquitted, notwithstanding he swore he gave me no leave; and it was proved by irrefragable testimony that he was in the habit of giving me verbal leaves. The finding of the court was, that I was warranted, from the practice of the admiral in giving me verbal leaves, in taking the leave this time.

By Mr. ORTH:

Q. Do you suppose the antipathy on the part of the admiral was caused by your friendship for Bliss and Masterman?—A. I thought it was at first; but, putting all things together, I concluded that it was for another reason. Somewhere about the last of December there was introduced on board the ship a Paraguayan officer. He was a man of commanding presence, and he made a great impression on my mind, as

he was the first specimen of a genuine Paraguayan officer (of whose bravery we had heard so much) I had ever seen; but, finally, the whole matter passed out of my mind. Captain Woolsey and Admiral Davis were evidently in concert in preventing me from going on shore. I would apply to Captain Woolsey for permission to go ashore on the 10 o'clock boat; he would return the application to me, saying that I had put two o's in his name, or that he had blotted it or defaced it. Another time I wrote to the admiral, asking him if he had taken any action on my application, which, I had been informed by Captain Woolsey, had been forwarded to him, and he wrote back that it was declined because it was disapproved by my commanding officer. But, finally, on the 8th of January, the admiral answered me, in response to my urgent appeal to go on shore, that the captain of the ship was authorized to grant leaves for forty-eight hours. I knew this was virtually yielding the point. The next morning I applied verbally to Captain Wolsey, and he gave me permission. Just before I went on shore, I happened to go down to see Mr. Bliss, and I told him I was going ashore, and if I could do anything for him to let me know what it was. I found he was in the greatest distress imaginable. Says he: "Doctor, look here!" and he showed me with trembling fingers a letter which had just been brought down to him by Admiral Davis's negro. I took it and read it, (it was in Spanish,) and I found that it was a letter from Captain Gill, of the Paraguayan navy, and, I believe, the same officer who had been introduced on board ship several days before. It was dated "Oriental Hotel, Montevideo, December 30, '68;" and on January 9, ten days afterward, it was handed to Mr. Bliss, with the end of the envelope torn open, accompanied by a verbal message from the admiral that he had read it and forgotten it. Says I: "For Heaven's sake take care of that letter; go into the dispensary and get an envelope, and put this letter and envelope, just as it came to you, in it, and preserve it." The contents of the letter were what astonished me. It appears that this gentleman had written to Mr. Bliss about the statement which he (Mr. Bliss) had made of him when he was compelled to make statements against Mr. Washburn and various other people in Paraguay. At the time these statements were made Captain Gill was one of the commanders of the batteries at Humaita, and these statements in the alleged confessions of Mr. Bliss implicated this Captain Gill in the conspiracy in which Mr. Washburn was engaged. Captain Gill says in this letter: "Having known you to be a man of truth and honor when I knew you in Paraguay, I take the opportunity of addressing this note, now you are at full liberty." The note then went on and asked a full explanation of the matter from Bliss, conveying the idea that, as he was now at full liberty, he should speak out. As soon as Mr. Bliss showed me this letter there was another motive for hurrying ashore; for I resolved to go immediately to the Oriental Hotel and see Captain Gill, and tell him the situation of Mr. Bliss. When I reached the Oriental Hotel I found that Captain Gill had left a day or two before; and thus the detention of that letter by Admiral Davis, from December 30 to January 8, inflicted as great an injury upon Mr. Bliss as one man can do to another. And I firmly believe that my detention on board the *Guerriere* was due to the fact that Captain Gill was in Montevideo. I advised Bliss to answer the letter and send it to Captain Wolsey, as all letters from him had to be inspected before they were sent out. Captain Wolsey told me afterward that it was sent to its destination. I have my doubts, however, that it was sent to its destination. I never saw it published. Besides, this letter contained an express denial of all the statements in that confession. So that if this letter went to its destination, it would have defeated the whole idea of the detention of Gill's letter to Bliss.

Q. What was Captain Hill doing at Montevideo?—A. He was captured by the allies at Humaita and was on parol. One day a Spanish officer came on board from the Spanish flag-ship lying near, and inquired for Mr. Bliss. Bliss was called on deck and the officer then asked him if he had prepared his answer to the letter sent to him. He, of course, was astonished, and said he had received no letter. Bliss presumed that the Spanish admiral had sent a letter inquiring about the condition of Spanish subjects in Paraguay.

Q. These things, you think, were done to prevent the truth getting out in regard to Lopez and himself?—A. Yes, sir; things went on in that way until about the 15th of January, when it was known that we were getting steam up to go to Rio. It was understood that we were to leave at one o'clock, and a little after twelve Mr. Bliss came down to me in great despondency, and said that there was one subject weighing upon his mind. He had promised a young gentleman, a fellow-prisoner in Lopez's country, to give some intelligence of him to his father, if he should survive him. They had made an agreement that if one survived the other the survivor should give intelligence to the family of the other. Mr. Bliss had been so much restrained that he had not written this letter, and now that he was going to leave without writing the letter, he felt very much distressed. I told him to sit down and write the letter, and I would take it to Captain Wolsey. He did so, and I took the letter to Captain Woolsey. I found him at lunch with Captains Ramsay and Kirkland. Says I, "Here is a letter Mr. Bliss has written to the father of a young man who was imprisoned in Paraguay."

I think it necessary to say that he wrote it at my suggestion." "Very well, doctor," says he, "I will lay it before the admiral." That was the last I heard of it. We got under way that day, and a little before dark on the 18th, three days afterward, Captain Woolsey sent for me. When I reached the cabin I found Mr. McDougall, the executive officer of the ship with him, whom I afterward learned had been detained as a witness to the conversation between Mr. Woolsey and myself. He then said, holding his letter in his hand, "Doctor, here is the letter that Mr. Bliss wrote and you brought to me on the 15th. I return it to you in the presence of Mr. McDougall, and I want to tell you that, hereafter, if Mr. Bliss has any letters to write, he will first give them to the corporal under whose charge he is, who will then give them to the executive officer, who will hand them to me;" thereby giving me a rebuke for taking this letter to him. He then remarked, pleasantly—not discourteously at all—that he did not know why I had told him that I had advised Mr. Bliss to write the letter. I said, "I told you because I wanted you to know it." I then took the letter and endorsed upon it the facts of the case. Captain Woolsey then said, "You know very well that these men have been under surveillance while on board the *Guerriere*. They are not so now because we are at sea, but they will be put under sentries' charge when we reach Rio." He then told me that these two men, Bliss and Masterman, were scamps and scoundrels, "and that the officers ought to have nothing to do with them; that if I had anything to do with them I would get myself in trouble;" all of which was taken down by Mr. McDougall, and he has record of it now. I said, "Captain Woolsey, it is possible these two men are scamps and scoundrels, but I will not believe it until I have it upon some other and better testimony than that furnished by Lopez and others." We then walked out on the quarter-deck and he advised me not to have anything to do with Mr. Washburn, and told me that if I did I would commit myself; to which I said that an honorable man cannot commit himself.

Q. What did Woolsey mean when he said you might get yourself in trouble if you had anything to do with these two men?—A. He referred, I presume, to the court-martial which the admiral intended to convene. Mr. Washburn's difficulties were the common talk of the naval officers, and I had considerable conversation with some of them about it. I soon saw from their tone that they were all opposed to Mr. Washburn. I was speaking to Captain Ramsay once about the Washburn matter, and he very coolly remarked to me, "Oh, he is a coward for having left these two men behind in Paraguay;" and then turning around to me, he said, "Don't you think so?" I was very anxious to convince these gentlemen, and I said, "Well, if Mr. Washburn has unnecessarily and pusillanimously abandoned any of his legation to Lopez, I think he is; but I am not prepared to condemn Mr. Washburn for what he has done. There is not a particle of evidence to warrant any inference of that kind." He said nothing that I remember. All this occurred before the 1st of October, before we started for Montevideo. This part of my testimony has some bearing on the difficulty between General Webb and Admiral Davis. Between the 1st and 3d of October, Admiral Davis was twice the guest of General Webb, and on the evening of the 3d they parted on the most friendly terms imaginable. I remained with General Webb until Monday morning, and on my way to the ship he accompanied me as far as the consulate. He stopped there and found some dispatches for him; one of them was Mr. Washburn's first letter. After reading it he remarked, "Oh, well, I understand it now;" and he handed it to me to read, and I read it with as much interest as General Webb himself. He then wrote a letter to Admiral Davis, which he asked me to take to him, and say in addition that if he would send his gig for him he would go over and see the admiral. I then took the general's note and Mr. Washburn's letter and hastened on board. The admiral was evidently discomposed on receiving the message, and remarked, "He is coming at an inopportune moment"—referring, no doubt, to the fact that the Admiral and Mrs. Davis were then preparing to visit the Portuguese man-of-war lying near us. We had some conversation together about this matter, and he then said, "This letter of Mr. Washburn's contains internal evidence that Mr. Washburn was so much under the influence of his fears that it could not be depended upon." He said that Mr. Washburn represented the nervous condition of his wife, when probably if he had said that about himself it would have been a little more correct. He then said that he had other evidence about this Paraguay matter; that he had received private notes from Captain Kirkland giving him full information. The admiral then left in his gig for the Portuguese man-of-war, but returned before General Webb arrived. He received the general as cordially as I had ever seen him do before, and took him in his cabin. That evening, between twilight and dark, I was walking with the admiral on the poop-deck, and he referred to the visit General Webb had made, and said that they differed entirely and widely about this matter, but that they had agreed to differ.

Q. At what time was that?—A. That was on the 5th of October.

Q. Before the arrival of General McMahon?—A. Yes, sir. He arrived on the 20th; so that I was very glad that the friendly relations between the general and the admiral were not broken off. I was glad to learn that they agreed to differ. He had made a remark to me before, "that the general was fatiguing to him;" referring, I suppose,

to what he thought to be the general's interference with his affairs. I never did understand that remark thoroughly, but I think it referred to the fact of General Webb's urging (for he had to do so) the admiral to take notice of the dispatches of Captain Kirkland, informing him that the Wasp had not been allowed to pass up the Paraguay by the allies. Admiral Davis had left these dispatches (as General Webb told me afterward) unopened on his table for some time. General Webb was very anxious to have them, so as to make reports to the Brazilian authorities. The general met Admiral Davis a little while afterward and asked him about the dispatches. The admiral said he had not opened them; that they were lying upon his table. The general then spoke up and said: "For God's sake, let me have something upon which I can go to the Brazilian government!" And the only note he did send him at last was a private note, which the general could not use. About this time I met Captain Erben and Captain Ramsay at General Webb's house. Captain Erben was commanding officer of one of the vessels of the squadron, and he was intimate with Captain Ramsey, and was always likely to receive any special squadron intelligence from him. Captain Erben remarked to Mrs. Webb that it was a cowardly transaction in Mr. Washburn to leave two of his legation behind in Paraguay, and that if General Webb had been in Washburn's position it would not have occurred; that he would have fought it out; and to that Mrs. Webb spoke up and said: "Yes, and then probably I would be sent over the Andes barefoot." That was the programme intended for Mrs. Washburn. General Webb then took leave of a guest who was departing, and showed him to the gate, and Captain Erben remarked that these two men did not belong to the legation. As soon as he uttered that, I said: "I will confound Captain Erben out of his own lips, and so effectually that I will wait until General Webb returns, so that he can hear it." General Webb came in, and I said: "I propose to confound Captain Erben here. He says Washburn is a coward for having left two of his legation in Paraguay. I accept his position, and yet, a while afterward, he takes the ground that these two men were not in the legation. I put the question to you, whether or not they do not rebut each other." Captain Erben never said another word. But in his anxiety of proving that Washburn was guilty of too much, he overshot the mark.

Q. What motive did Admiral Davis, or any of the officers of the squadron, have for indulging in this feeling of hostility to Mr. Washburn?—A. I do not know.

Q. Had they ever been brought in contact?—A. I think not.

Q. Had they known the difficulties between Admiral Godon and Washburn?—A. They must have known of them, but that could not have gone very far.

Q. Did not Admiral Davis receive, as a legacy from Admiral Godon, his ill-will toward Washburn?—A. No, sir; not at all. I am inclined to think that that was attempted. I think that Admiral Godon wanted to leave such a legacy, but Admiral Davis would not receive it.

Q. What inference did you draw from the fact that he intended to use these private notes afterward?—A. In an anticipation, I believe, of an investigation, and I have been looking forward to this committee to bring forth these notes. I cannot help the inference that a programme of procedure had been concocted before our squadron went up to Paraguay, and that our going up there was merely an execution of that programme. After Captain Kirkland came on board the Wasp, a lot of Paraguayan tea came on board after him, a present from Mrs. Lynch and Lopez. Quite recently, and after the 27th of April, it was supposed to be necessary to have some communication with General McMahon, and an attempt had already been made by Captain Kirkland, but the allies refused to let him go. This was after they had taken Angostura. Captain Kirkland tried to send a message through to Minister McMahon, but Admiral Davis always refused to have anything to do with it; but afterward, when it was ascertained that Commander Ramsey was conditionally engaged to be married to one of the sisters of McMahon, that condition being that he must have the consent of her brother, then it was that Admiral Davis could find opportunity to communicate with Lopez and with our minister there. They went up and were allowed by the commander of the allied forces to pass through. They saw General McMahon, and saw Lopez and saw Mrs. Lynch. Young Davis, (son of the admiral,) when he came back spoke of having a splendid time, driving in coach and four with Mrs. Lynch, and was particularly delighted with the little arrangements of Mrs. Lynch, when she had some of the prettiest girls in Paraguay to wait on the table, veiled very faintly indeed.

I wish to call attention of the committee to a paragraph in the Buenos Ayres Standard of the 19th December:

"IMPORTANT FROM PARAGUAY—ARRIVAL OF WASP—BLISS AND MASTERMAN PRISONERS.

"Yesterday the River Plate public was treated to the final wind-up of the Washburn business, which reflects as much credit on General McMahon as it does ridicule on his predecessor.

"The two gentlemen of Villeta, about whom there has been so much said and written, and concerning whose terrible fate there was such deep-seated anxiety, are now on

board the United States gunboat Wasp, close prisoners, to be forwarded for trial to the States.

"It may be recollected that one of Mr. Bliss's published letters was said to have been written after torture; most people believed Bliss long since dead, and many, we suppose, prayed for the repose of his soul; but 'truth is stranger than fiction;' he is alive and in rude health, on board the Wasp, where he and Masterman are detained close prisoners. The following telegram is the very latest respecting the author, the secretary, and as we now hear, the spy:

"MONTEVIDEO, December 18, 1868.

"Wasp arrived.

"Bliss and Masterman on board as accused; will be sent to the United States.

"General McMahon landed on the 11th instant.

"Wasp left next day.

"Reported that — Brazilians were put "hors de combat" on the 6th and 11th. Lopez at Angostura. When Wasp left the number of Paraguayan army ignored; supposed to be greater than reported.

"Englishmen command battery at Angostura. All well there on the 11th."

The Wasp arrived at Montevideo on the 18th of December, and the Pawnee arrived in Buenos Ayres on the 19th of December. That statement must have been furnished to the editor of the Buenos Ayres Standard by officers on board the Pawnee. These telegrams were sent from the Wasp and were furnished by Captain Kirkland. There was other information furnished to the paper lauding McMahon and throwing ridicule on his predecessor. Now what good does it do for an American naval officer to ridicule an American diplomatic officer?

Q. Who is commander of the Pawnee?—A. Captain Erben.

Then on the 20th the following from the same paper:

"THE WAR IN THE NORTH.—THE PAWNEE WITH DATES TO 13TH.

"The Marcelo Diaz with dates to the 15th.

"Both these steamers have arrived, but they bring very little news of importance beyond the fact that Lopez, instead of having cleared out with 200 men to Luque, is at the head of his army in Angostura; and some American officers who have inspected Angostura report it as a position of great strength which will cost much to take.

"When the American squadron arrived up at Angostura, Admiral Davis dispatched a boat ashore with a peremptory demand for the immediate surrender of Bliss and Masterman.

"Lopez at once complied, sending the two gentlemen of Villeta down to the boat under charge of a guard, and also an invitation to Admiral Davis to come ashore to his encampment. The admiral at once complied, and had a long interview with Lopez, who, we understand, gave the very best proof that both were spies of his during their residence at the legation. General McMahon subsequently went ashore, and was received with all the honors by Lopez when presenting his credentials.

"We hear that the Pawnee has brought very important dispatches for the American minister here, his excellency Mr. Worthington.

"General McMahon remains at Angostura, and has not gone to Asuncion.

"There was nothing known of the whereabouts of Gelly y Obes, supposed to be at Palmas.

"The Paraguayans we hear claim to have taken some pieces of artillery in one of the last fights, but how far this may be we cannot say.

"The Brazil, when passing Angostura, suffered terribly. The battery guns were covered over with hides, until the monitor came within range, then they opened up an awful fire, which shot down captain, officers, and men; they tried to turn the ship or back down, but it was out of the question, and the only hope for the Brazil was to push on as best she could and get above Angostura, where she now lies."

It was impossible for this information to be had except from the officers of the vessel. On the 23d day of January, and after we reached Rio, I met a gentleman in Rio who was a great friend of Bliss, and he wanted to see him. I told him that the rule was that people on shore could not communicate with him, but that he, if he went on board to see the admiral there, might be some relaxation to the rule. He went on board with me and immediately went into the cabin; when he came out he told me he had the admiral's permission to visit Bliss. He also told me that the admiral had said that General Webb had given him an order to go down the river after Mr. Webb, and that, and that alone was the cause of the difficulty between them. I immediately spoke up that it was not true; that it could not be true by any possibility. The next day Mr. Bliss informed me that he had received a letter from the admiral the day before to the following effect: "Sir: You are requested to inform me whether you will take passage on the American packet for New York, and upon reaching there report to Mr. Seward. In-

form me at once whether you will accept this proposition." I was a good deal startled when I saw this and said, "Mr. Bliss, you ought to have told me of that letter before. Mark me, if Admiral Davis does not attempt to make use of that letter to make it appear that he has been treating you and Mr. Masterman in a gentle manner, and if you had told me of that letter before I would have put you on your guard." "But," says I, "if there should be any investigation about this matter, as I hope there will be, and the actual facts are brought out, and they are directly in opposition to that letter, it will put Admiral Davis in contradiction."

[Sunday Chronicle, (Washington,) February 23, 1869.]

"THE PARAGUAYAN TROUBLE.—The Secretary of the Navy yesterday sent to Congress additional correspondence received in regard to the Paraguayan trouble. Letters are inclosed from Messrs. Bliss and Masterman, late members of our legation at Paraguay, who were seized by Lopez and barbarously treated. It seems by the letter of Mr. Masterman that Admiral Davis is not liable to the censure which published accounts have stated he was, for in a letter to the admiral, dated January 23, Mr. Masterman writes:

"I avail myself of this opportunity to thank you most gratefully for the important service you rendered me by delivering me from a cruel captivity, and probably violent death, in Paraguay."

"Mr. Bliss writes that he would accept the admiral's offers to convey him home, and would, as in duty bound, report in person to the State Department."

[New York Weekly Herald, February 20, 1869.]

"Our Rio Janeiro letter is dated December 29. Admiral Davis, with his fleet and the two prisoners, had arrived at Buenos Ayres. He expresses himself satisfied with the explanation made by Lopez, and believes that Washburn, Bliss, and Masterman were all engaged in a conspiracy to overthrow the Paraguayan government. The remnant of Lopez's army was still at Angostura, Luque being at present his seat of government. Minister McMahon was with him. Caxias's army was very much in need of reorganization after the fight at Villeta, and it was rumored that Porto Alegre had been requested to assume the chief command of the army. On the 27th of December a fire broke out in the custom-house in Rio Janeiro, and as no one was permitted to open the doors unless the señor guardian of the keys was present, the fire gained such headway that before it was extinguished—two persons having, after a long delay, concluded to smash open the doors, notwithstanding the regulations—property was destroyed to the amount of \$250,000."

WITNESS. There is one thing I omitted to mention, and that is, that when the letter of the Spanish admiral was being discussed on the quarter-deck, Captain Wolsey told Bliss that he seemed to consider himself a prisoner on board the ship; that he was not a prisoner; that he was a guest. After the return of the letter which Bliss had written to the father of his fellow prisoner in Buenos Ayres, Captain Wolsey said to me particularly that Masterman had shown a very bad and vindictive spirit on board ship. I did not know what he alluded to. I had not seen anything objectionable in his conduct. I asked Masterman what he had done, but he was ignorant of having done anything to which offense could be taken, except a letter which he wrote to Mr. Stewart, in which he stated that he was treated a little better than he was on the Wasp.

NEW YORK, *October 26, 1869.*

MARIUS DUVALL recalled and examined.

To Mr. ORTH:

I omitted yesterday to narrate a conversation I had with Captain Ramsay about Mr. Washburn at Rio. He said to me: "What right had Mr. Washburn to report to Mr. Stewart, the British minister to Brazil?" alluding, I suppose, to a letter which Mr. Washburn had written to Mr. Stewart, giving information about matters in Paraguay. I said to Captain Ramsay that perhaps it did not occur to him that Mr. Washburn was doing the public a great benefit by giving information to different nations of the condition of their subjects in Paraguay. Captain Erbin met me one day on the wharf at Rio, and we commenced to talk about Paraguay matters. I think he exhibited some irritation at the argument I had with him at General Webb's house, and he asked me why I had talked so earnestly at that time. I said to him pleasantly that it was merely for the sake of argument; that I was trying to convince him. That seemed to quiet him. I remarked to him that he might depend upon it that the officers of the navy were committing a very grave mistake in running down Mr. Washburn; that in all probability General Grant would be elected to the presidency, and he and E. B. Washburne, his brother, would be influential men in the government, and it would not do to have them opposed to the navy. I merely mention this to show that I was doing all I could to have these men view matters in a different light.

Testimony of Francis M. Ramsay.

NEW YORK, October 26, 1869.

FRANCIS M. RAMSAY sworn and examined.

By Mr. ORTH :

Question. What is your position in the navy?—Answer. I am a commander in the navy; am at present on ordnance duty in the navy yard at Washington.

Q. How long have you been in the navy?—A. I have been in the navy over nineteen years.

Q. What was your position in the navy from September, 1867, to September, 1869?—A. From September, 1867, to June, 1869, I was fleet captain and chief of staff of the South Atlantic squadron, and from June, 1869, until the latter part of July, in addition to this duty, I commanded the United States flag-ship *Guerriere*.

Q. Who was your admiral?—A. Rear-admiral C. H. Davis.

Q. Where were you stationed in October, 1868?—A. On the 28th of October I was on board the flag-ship *Guerriere*. She left Rio Janeiro on that day with General McMahon, United States minister to Paraguay, and on the 3d day of November anchored off Montevideo. On the 7th day of November Admiral Davis transferred his flag to the *Wasp* and took General McMahon to Buenos Ayres. He went there for the purpose of consulting with Minister Worthington and Mr. Washburn, who was there at that time. On the 10th the *Wasp* returned, bringing the admiral, Minister McMahon, and Minister Worthington. On the 17th Minister McMahon left the *Guerriere* and went to Buenos Ayres. On the 19th Admiral Davis again transferred his flag to the *Wasp*, and I went with him. We sailed for Paraguay, and on the 20th stopped at Buenos Ayres for the purpose of taking on board General McMahon. On the 21st we sailed from Buenos Ayres with General McMahon on board, and on the 23d arrived at Rosario del Santa Fé. On the 24th we left Rosario. Having only one pilot, the ship anchored every night and ran all day. On the 30th of November we arrived at Corrientes, stopped there to coal, and on the 1st of December we sailed from there, arriving at Palmas on the 3d. We there communicated with the commanding officers of the Brazilian squadron, and then passed up and anchored off the Paraguayan batteries at Angostura. Commander Kirkland, of the *Wasp*, was sent on shore with a letter to President Lopez. He returned with a message from Lopez, saying that he would be at the Angostura batteries in a short time, and requested that Admiral Davis would come on shore and have an interview with him. The admiral immediately went ashore, accompanied by Commander Kirkland, and had an interview with Lopez. Some correspondence passed afterward between Lopez and Admiral Davis. All of the letters passed under my observation, as I was Admiral Davis's chief-of-staff. These letters have all since been published. The dates I have here given I obtain from a note-book I kept at the time. One of the communications sent by Lopez to Admiral Davis contained a request that the admiral should send one or more naval officers to be present at the tribunal, to witness the verification of the declarations that had been made by Bliss and Masterman. Commander Kirkland and myself were detailed for this purpose.

Q. State all you recollect in reference to that transaction; what time you went there, who were present, and what transpired.—A. At 10 o'clock on the morning of the 8th of December Commander Kirkland and I went on shore. We were furnished with horses, and, accompanied by a lieutenant, went to the headquarters of President Lopez.

Q. How far distant from the batteries?—A. I should judge about six miles. We were received there by two officers; one, I think, was Lopez's military secretary, and the other his son, who, I think, was a major in rank. We paid our respects to the President, and I think it was about mid-day when we went before the tribunals. The persons present were the two judges, Lopez's chief-of-staff, and two officers who spoke English.

Q. Who constituted the tribunal?—A. I supposed that the judges constituted the tribunal, and that these officers were merely present as interpreters, and perhaps as a matter of etiquette toward us.

Q. Did these persons constitute a part of the tribunal?—A. I did not so understand it. After we had been seated in the hut, Bliss was brought in, or rather came in. Commander Kirkland asked him whether he was Mr. Bliss or Mr. Masterman. He answered: "My name is Porter Cornelius Bliss. He was then given a seat on one side of the room. I am not sure whether he was then informed who we were or not; but he was so informed afterward, and before he left the hut.

Q. By whom was he so informed?—A. It was all written at the end of his declaration, which he signed. Our names and rank were written out in full. We were also in our proper uniform, with our swords.

Q. Did you or Captain Kirkland inform him?—A. No, sir.

Q. Was he informed of the object of your visit?—A. No, sir. As soon as Bliss was

seated, one of the officers who spoke English commenced reading the declarations Bliss had made at different times. As each declaration was read he was asked in Spanish if it was correct. He was then shown his signature at the bottom of each and asked if that was his signature, and in each case he answered, "Yes."

Q. Do you speak Spanish?—A. I can understand it. Commander Kirkland understands Spanish as well as he does English, and I referred to him, when anything occurred I could not understand. During the reading, the officer would sometimes hesitate as if he did not understand the word; Bliss would always prompt him and supply him with the necessary word. It occupied considerable time to read Bliss's declarations; I think there were about fourteen of them; some of them were very long. After they were all read, a paper was drawn up and signed by each of the judges, Commander Kirkland and myself as witnesses, and then by Bliss. The paper was simply a certificate that these declarations had been read to Mr. Bliss in our presence; that he had acknowledged that they were all correct; and that he again, in our presence, reiterated the statements.

Q. When you left the vessel by direction of Admiral Davis to go on shore and have this interview, were you aware that you were to proceed to this tribunal and listen to these declarations?—A. I understood my duty was to go to President Lopez's headquarters; that I would then go before the tribunal, and that Mr. Bliss and Mr. Masterman would there be called upon to verify their signatures to these declarations and certify to their correctness, and that my duty was to be present during these proceedings and witness what they did. That was my sole duty. I was simply a witness to their signatures.

Q. Was it your understanding that Bliss and Masterman were criminals, or that you went out there to demand them as American citizens or members of Mr. Washburn's legation?—A. All that I knew about the status of Bliss and Masterman was what I read from the correspondence which Mr. Washburn had had with the Paraguayan government and the letters which Mr. Washburn wrote at different times after he left Paraguay. I knew that Bliss and Masterman were called criminals by President Lopez, because I read all of Lopez's communications, and he always spoke of them as criminals; but their status was something with which I had nothing to do. Commander Kirkland and myself were sent there simply as witnesses of these papers. It was the request of Lopez to Admiral Davis that one or more officers should be present to verify these declarations.

Q. Were you not sent there to protect Bliss and Masterman as American citizens?—A. No, sir; the case as I understood it when I left the ship was that President Lopez intended to give up Bliss and Masterman to Admiral Davis immediately, but that before they left the country he wanted all these declarations verified, and wanted that verification in the presence of a United States officer. That was the way I understood it, and my duty was only to go there and be witness to what they said.

By Mr. WILKINSON:

Q. Did you give these men to understand that they would be protected in telling the truth—in denying these statements; that the government of the United States would protect them if they did so?—A. No, sir; our presence was sufficient guarantee of that.

By Mr. ORTH:

Q. In this connection I wish you would describe Mr. Bliss's personal appearance, his clothing, &c., and likewise the place in the court-room these two men occupied in respect to the judges and the officers constituting the court.—A. When Mr. Bliss came in, the appearance of his face was as much like it is now as it possibly could be. He was perfectly calm and self-possessed and answered every question as coolly as he possibly could at any time. His clothes were very shabby, and his pantaloons were split up a little at the bottom of the legs as if they had been worn a great length of time. He wore a pair of shoes. I noticed they were very good shoes, except that the India-rubber was a little stretched. His clothes looked as if they had been worn a great deal without any care. The tribunal was in a small room; Bliss and Masterman sat on one side of the room; on the opposite side sat the officers I spoke of. At the end of the room was a table and behind the table sat the two judges and the person who read, and opposite them at the other end of the room sat Commander Kirkland and myself.

Q. Did you see Mr. Bliss come in?—A. Yes, sir; he came in alone.

Q. Had you any conversation with him at that time?—A. None whatever.

Q. What insignia of office did these judges or the other officers exhibit?—A. They were all in the uniform of the Paraguayan army and wore their swords. The judges wore a cross; I believe they were both priests.

Q. What part did these judges take in this examination?—A. They merely sat there and administered the oath. Both Bliss and Masterman were sworn. After Bliss's declaration was finished he was allowed to retire, and it was proposed that we should take a short recess. And I suppose it is proper, in this connection, to refer to Mr.

Bliss's statement in regard to myself. While standing outside, talking to these officers, one of whom had been in London and the other in Paris, a boy passed by, wearing a pretty embroidered shirt, which I remarked upon, and asked if that was the work of the country. They told me that it was, and that their women prided themselves on that kind of work. He then sent into the house for some specimens of the work, and a shirt and a towel were brought out. He handed me the towel and said: "Perhaps your countrymen would like to see some specimens of Paraguayan work. Won't you take this?" He then gave me the towel, which I have brought with me, for the purpose of showing it to the committee. I received nothing else. They also brought out some *caña* and cigars, and asked us to partake of them. I neither smoke nor drink, so I did not accept of their invitation. Commander Kirkland, however, did take some; and after a short recess we returned to the hut where the tribunal was held, and Masterman was brought in. While we had been out I saw a person standing beside a tree, with a sentry near him, which I supposed to be Mr. Masterman. As Mr. Masterman came in he had to pass close by my side, and as he passed me he said: "You must forgive me for what I am going to say. I hoped to be spared this shame." Those were his exact words, and I wrote them down as soon after as I could. When he was first sworn he exhibited great fear. His manner was that of a man very much alarmed; and when he took his seat, he twitched and moved about all the time. He seemed very uneasy. After his first declaration had been read, and he certified to its correctness and verified his signature, I said: "Mr. Masterman, do you understand everything that has been read to you there?"

Q. Did you make that remark in the presence of the court and officers?—A. Yes; before everybody. He said, "Yes;" and then one of these Paraguayan officers spoke up and said: "Mr. Masterman wrote part of this in English, and it was translated into Spanish, and he had an interpreter to explain to him all that had been written." Mr. Masterman immediately spoke up, and said: "I understand Spanish very well. I have been speaking it for seven years. I wrote a greater part of the declaration myself." "Then," said I, "Mr. Masterman, I am to understand that all you have stated in your declaration is true; and that is your evidence under oath." To this he stammered out: "Yes; but please don't ask me any questions." One of the officers present then said: "Why don't you want to be asked any questions?" asking him this in Spanish. He said, because "it will take up the time of the court," or words to that effect. So I made no more remarks to him. After he had finished his evidence, as he was going out, he made some remark to Commander Kirkland, the exact words of which I cannot remember; but the sense of it was this: "Are we not going away with you? I understood you came here to take us away." That is the tenor of what he said. It was 8 o'clock in the evening before we got through.

Q. What impression was made upon your mind by these remarks of Mr. Masterman?—A. I will read a note I made in my memorandum-book at the time: "Went to the tribunals and heard declarations of Bliss and Masterman. Am sure Bliss lied, and think Masterman did also."

Q. Then the impression made upon your mind, as I understand from this memorandum, was that Bliss and Masterman were not guilty of the charges they confessed?—A. The reason I said I thought Bliss lied, was because he made reference to things which I knew were not true.

Q. Did you mean by that memorandum that you thought these confessions were extorted from him?—A. I took it for granted that they were. I never saw a man exhibit such fear as Masterman did. We returned to the ship about 9 o'clock.

By Mr. WILKINSON:

Q. Did you make any report to the admiral when you arrived?—A. I told him, as nearly as I could recollect, everything that occurred.

Q. Did you apprise the admiral of the impression made on your mind as to whether those confessions were voluntary or extorted?—A. I am pretty sure I did, because the memorandum was written immediately on getting on board the ship.

Q. What reply did the admiral make to this?—A. I do not remember. Of course, when we got back, the admiral was very anxious to know what had occurred during the day, and I gave him as clear a statement as I could.

Q. Were your orders to bring Bliss and Masterman back with you to the ship?—A. No, sir.

Q. Did you make any suggestion to the admiral in regard to bringing them aboard that night?—A. No, sir.

Q. You left them in the hands of the Paraguayan authorities when you passed from the tribunal to the vessel?—A. Yes, sir; we left them just as we found them.

Q. Did the admiral make any suggestion as to bringing these men upon his vessel when you apprised him that you regarded these confessions as the effect of compulsion?—A. I understood before I left the vessel in the morning that Bliss and Masterman would be delivered up to Admiral Davis as soon as an officer was sent to verify the declarations.

Q. Still, you went away from the tribunal without bringing them on board?—A. Yes, sir. President Lopez had informed Admiral Davis that he would deliver them on board of the Wasp as soon as their declarations had been verified.

Q. Did you request their deliverance up to you?—A. No, sir. It would not have been proper. Their delivery had already been arranged in official correspondence.

Q. Then from what you and Captain Kirkland heard, you had no reason to believe that they would be delivered up?—A. Yes, sir; I expected they would be delivered up, from what I knew.

Q. Did you expect they would be delivered up when you started?—A. No, sir; I did not expect they would be delivered up to me. I should have declined to receive them.

Q. Why so?—A. Because I had no guard or American flag with me. I could not have received them at all, unless they were delivered to me in my boat on the river. Moreover, the question of their delivery had been already settled. They were to be delivered on board the Wasp. I had been sent to perform a specific duty.

Q. Let me state a hypothetical case: Suppose you found in some barren country an American citizen deprived of his liberty, unjustly accused of crime, would you not feel it your duty, as a naval officer, to obtain his release, even if you had not the means to comply with all the rules of etiquette pertaining to the navy; for instance, if you had not an American flag, would you not endeavor to rescue him?—A. It would depend entirely upon how I was placed. I would allow no mere question of etiquette to interfere with the proper performance of my duty. It would be absurd for a subordinate officer, sent on special duty, in a case fully understood by his superior, six miles from his vessel, and in a military camp, to attempt to rescue a prisoner for whose release certain arrangements had already been made.

Q. When were Bliss and Masterman put on board the ship?—A. About 11 o'clock on the 10th of December.

Q. Who received them when they arrived?—A. I do not remember what officer received them. I was in my state-room at the time. It was no part of my duty to receive them.

Q. When did you first see them after they reached the vessel?—A. I saw them walking about the deck the next morning.

Q. What do you know as to their having been received and held as prisoners?—A. I know nothing as to what occurred at the time of their reception. I know from being told, not from my own observation, that a sentinel was placed over them the first night they came on board. I had nothing to do with the command of the Wasp.

Q. How were they regarded on the Wasp from the time you left Angostura until you reached Montevideo; as prisoners, or freemen?—A. So far as I know, they had perfect liberty to go about the vessel.

Q. All over the vessel?—A. All over the vessel where men are allowed to go. They lived forward with the men.

Q. How was it when you arrived at Montevideo?—A. I remember most distinctly that I suggested to Admiral Davis that the request of President Lopez could only be carried out by keeping them under sentinel's charge. President Lopez expressly asked that they should not be allowed to communicate with his enemies.

Q. Then Admiral Davis complied with the request of Lopez, that they should be kept under guard?—A. President Lopez made no such request of Admiral Davis that I am aware of.

Q. Then you did not regard them as freemen?—A. They were freemen, except that they could not go on shore or give information about President Lopez, which they both seemed very anxious to do. I thought they had too much liberty.

Q. And you thought this confession of Bliss and Masterman was extorted, and that they were innocent men?—A. No, sir; I did not say that they were innocent, but I thought the confessions were extorted. I never saw a man more frightened than Mr. Masterman, and I never saw a man more cool than Bliss; and I knew Bliss did not tell the truth, because he made statements that I knew were not true.

By Mr. WILLARD:

Q. Did you suppose that Bliss and Masterman were making this confession for the purpose of saving their lives and getting away from Paraguay?—A. No, sir; that never entered my head.

By Mr. SWANN:

Q. Had you any knowledge of these two gentlemen—of their personal history and their connection with the Paraguayan government?—A. I had heard of Mr. Bliss; I had never heard of Mr. Masterman. I heard of Mr. Bliss having been employed by General Webb.

Q. In this official letter you speak of from President Lopez, did he make any stipulation that they were not to communicate with anybody on shore?—A. My impression is that it was a request merely. The letter is on file in the department.

Q. You were under the impression that they were delivered up as a matter of courtesy to the United States, and not because Lopez believed them to be innocent?—A. My impression was that Bliss and Masterman were regarded as criminals in Paraguay, but that President Lopez, on account of his friendship to the United States and the request of Admiral Davis, was willing to give them up and trust to the United States for any punishment that might be necessary. Lopez always styled them in his letters as criminals.

By Mr. ORTH :

Q. At what time were these persons transferred from the Wasp to the Guerriere?—A. On the 18th of December the Wasp arrived in Montevideo, and a little while afterward they were transferred to the Guerriere. I would like to make a remark in regard to the statements in Mr. Bliss's memorial to the government. He says: "The head torturer, who sat directly opposite to me sword in hand." That is not true. No one sat there sword in hand. Every person present had a sword, and for a matter of convenience the officers sat with their swords between their legs.

Q. Was the sword in the scabbard?—A. Yes, sir. Mr. Bliss further states, "the torturer and other persons adding their own signatures." The only persons who signed the papers were the two judges, Commander Kirkland, and myself.

Q. Who was the chief torturer?—A. I do not know the man they called the chief torturer. Some say it was one of the judges, some say it was others. Bliss says further on, "Not a word was said to me by these officers, except to ask my name in a rude manner, and to say, 'speak in English,' when I recognized my signature for the first time." Commander Kirkland said to him as he came in, "Are you Mr. Bliss or Mr. Masterman?" There was no rudeness in the manner of asking the question; if there was any rudeness at all it was on the part of Mr. Bliss, in the way he answered. When he verified his statements Commander Kirkland said to him, in ordinary tone of voice, "Say that in English." Mr. Bliss goes on further to state, in regard to his letters, that they were "all under the censorship of Admiral Davis, who opened letters sent to me, and suppressed correspondence to and from me." All the letters that I know of that came for Mr. Bliss came enclosed to Admiral Davis. They were all open, not sealed at all. I know this because I was the admiral's chief-of-staff, and was his medium of communication to the captain of the ship, and all the letters that came to Admiral Davis or Captain Wolsey for Mr. Bliss passed through my hands.

By Mr. WILKINSON :

Q. Did you hear of a letter being sent from Captain Hill, an officer in the Paraguayan army, to Mr. Bliss, sent to him December 30th, and kept back until January 8th?—A. I do not remember anything of it. I know perfectly well that such a thing was never done by Admiral Davis as to open a letter that was sealed.

Q. If such a letter had been sent would it go through your hands?—A. It would go through either my hands or Captain Wolsey's. We lived together in a small cabin, and every paper that had any connection with Bliss or Masterman was either handed to me by him, or to him by me; it depended upon whichever way it was going. Mr. Bliss further states: "Meanwhile calumnious imputations were published in the newspapers concerning me, proceeding from officers of the United States squadron, which I was not allowed to refute, and extracts were published from my extorted depositions which had been furnished by Lopez to the officers of the expedition." The only persons who saw President Lopez were Admiral Davis, Commander Kirkland, and myself, and all the correspondence passed through my hands. I received every letter that came from President Lopez, and kept it in my possession, and I wrote every letter that went to him, and there were no extracts in any of those letters from any depositions. A sealed package of papers addressed to the Secretary of State came on board the Wasp with Bliss and Masterman. This package came to me sealed as it came to the admiral, and was kept by me under lock and key until I put it in the department mail bag.

Q. Did you or Captain Kirkland have a copy of those declarations read by Bliss and Masterman?—A. No, sir; Mr. Bliss may have made requests to refute articles in the papers, but if he did it was very strange that I should not have heard it, because Captain Wolsey came to me about every matter that occurred in regard to Bliss and Masterman. Bliss goes on, "I also abstain from alluding to the conduct of Minister McMahon after landing at Angostura." Mr. Bliss knows nothing about the conduct of Minister McMahon after he landed at Angostura, because the Wasp sailed within an hour after Minister McMahon landed. I was the last person to talk to him then, and I was the first person outside of Paraguay to communicate with him afterward, so that Mr. Bliss had no means of knowing, in any way, anything that Minister McMahon did. This letter of Bliss's was written after Minister McMahon's landing at Angostura and before I communicated with him in May last. Mr. Bliss also states that he "does not comment on the conduct of Admiral Davis in delaying so long the departure of the South Atlantic squadron for Paraguay." If Mr. Bliss was in Paraguay up to the time the Wasp came up there, he knows nothing about what occurred in the squadron be-

fore that time. Mr. Masterman says in his statement, "but as the interpreters sat one on each side of me." This is untrue, for the interpreters sat on the opposite side of the room and I sat between the interpreters and Mr. Masterman. He further states, "Aveiro, who sat facing me with a sword in his hand," &c. That is not true. The sword was in the scabbard. He may have held it in his hand to rest on it.

Q. How near did he sit to Masterman?—A. He sat as far from him as the size of the room would permit. The room was about fourteen feet square. While the depositions were being read Bliss and Masterman sat on one side of the room and the Paraguayan officers on the other. Commander Kirkland and myself were the nearest persons to them. These gentlemen have taken on themselves to mention about the presents the officers received. That small towel was the only present received, and that was given to me. Nothing was even given us to eat, and I was from 8 o'clock in the morning until 9 o'clock at night without even a mouthful of water. This *caña* and cigars were set before us, but I did not touch either.

Q. How long after Masterman and Bliss came on board the Wasp did Minister McMahon leave that vessel?—A. They came on board at 11 o'clock on the night of the 10th, and Minister McMahon was to have landed at 1 o'clock the next day. But the Brazilian iron-clads came up and attacked the batteries at Angostura, and we were obliged to drop out of the way and remain until the next day, when we returned, and at 3 p. m. General McMahon was landed.

Q. Do you know of any request made by Mr. Bliss for the purpose of having an interview with Minister McMahon prior to his landing?—A. No, sir. I heard him say something about talking with these men; but I think it was determined he had better not.

Q. By whom was it determined?—A. That is hard to say. Admiral Davis, Minister McMahon, Commander Kirkland, and myself all lived together, and we talked these matters over together.

Q. It was the result of conference?—A. Yes, sir.

Q. Then there was a request made for an interview?—A. I cannot recollect now. I might not know it.

Q. Would the commander of the ship communicate directly with Minister McMahon?—A. Yes, sir; the captain would make it direct to Minister McMahon, and it would not come through me.

Q. State to the committee what consultations were had between Minister McMahon, Admiral Davis, Captain Kirkland, and yourself, in regard to the propriety of Bliss and Masterman having an interview with Minister McMahon.—A. I have only a slight recollection that something was said about it. I cannot remember the circumstances.

Q. The propriety of it was discussed?—A. I cannot even say that. It was discussed at the time. I know what my opinion of it was.

Q. Did you give your opinion at the time?—A. I do not remember.

Q. Did you hear any other person present give any opinion as to the propriety of granting the request?—A. It made very little impression on my mind. It was an ordinary conversation. If I gave any opinion, it was that Minister McMahon should have nothing to do with them.

Q. Do you know of any request that was made by Bliss or Masterman to have an interview with Admiral Davis?—A. There were several requests on board the *Guerriere*.

Q. Any on board the Wasp?—A. I do not know.

Q. Do you know of any interview between Admiral Davis and Bliss or Masterman, on board the Wasp?—A. No, sir.

Q. Or on board the *Guerriere*?—A. Admiral Davis had several interviews on board the *Guerriere* with Mr. Masterman.

Q. Did he have any with Mr. Bliss?—A. I heard that he did. I did not see any.

Q. Do you know if any difference was made between the treatment of Bliss and of Masterman while on board the Wasp or *Guerriere*; whether one was allowed more freedom than the other?—A. They both lived in the same mess on board the *Guerriere*—the warrant officers' mess. On board the Wasp they lived forward, with the men. Masterman objected very much to having a non-commissioned officer of the marines over him, and he applied to the admiral to have him removed.

Q. Where was that?—A. On board the *Guerriere*.

Q. While you were still in port?—A. Yes, sir; at Montevideo; and he gave his parole that if the surveillance were removed he would not communicate or attempt to communicate with anybody on shore without permission.

Q. Then it was removed as far as Masterman was concerned?—A. Yes, sir.

Q. Was it removed so far as Bliss was concerned?—A. I am not able to state. It was not removed at the same time.

Q. Did you understand that Masterman was a British subject when you first landed at Villeta; or did you regard him as an American citizen?—A. I regarded him as a British subject, although called by Mr. Washburn an attaché of his legation.

Q. Was Admiral Davis apprised of the contemplated arrival of Minister McMahon at Rio, before he left there?—A. Yes, sir.

Q. Did he express any unwillingness or hesitation to forward Minister McMahon to his point of destination?—A. On the contrary, he offered to forward him there, and also to accompany him himself. He offered him every facility.

Q. Did Minister McMahon take up his quarters on the *Guerriere* prior to her sailing for Montevideo?—A. No, sir; he came on board but an hour or two before she sailed. He came on board at 11 o'clock, and she sailed at 3 o'clock of the same day.

Q. You stated a while ago that you paid a second visit to Paraguay, I think in May, subsequent to the release.—Yes, sir.

Q. Was it an official visit?—A. Yes, sir.

Q. What was the purport of it?—A. To carry dispatches to Minister McMahon, and ascertain where he was. He had not been heard from since he left us at Angostura. Efforts had been made to communicate with him, but to no effect, as the allies would not allow a flag of truce to pass.

Q. Were your dispatches from the Department of State?—A. Yes, sir. They had been collecting from the time he went into Paraguay up to that time.

Q. How did you go up to Paraguay?—A. I went up in a passenger ship. The Argentine government gave permission for a flag of truce to go with dispatches to Minister McMahon.

Q. Did anybody accompany you?—A. Only Lieutenant Davis, son of the admiral. He went because he was a good French scholar and had better knowledge of Spanish than myself. His orders were to accompany me as interpreter.

By Mr. SWANN:

Q. You stated a little while ago that you would have nothing to do with these men, Bliss and Masterman; that if you were in Admiral Davis's place you would not grant them so much liberty. You seemed to be unfavorably impressed in regard to these men. Will you state the cause of those impressions?—A. I was very unfavorably impressed with the statements which I understood Bliss had made in those confessions, especially some statements he made against Commander Kirkland. Then I had heard of Mr. Bliss before. I knew nothing of my own knowledge about him.

Q. Where had you heard of him?—A. I had heard of him on the station, as soon as his name came up in connection with this affair.

Q. Had you heard anything to his disadvantage?—A. Yes.

Q. Did that information come from reliable sources?—A. It was one of those rumors flying about. I could not even say who it was that gave me the information. Bliss seemed to be very well known by people along the river.

Q. Men of respectability?—A. Yes, sir.

Q. What was the character of this charge?—A. It was general rumor. One story was that he had been in General Webb's employ as a tutor, and that General Webb discharged him for fear he would contaminate his children; that he was not a proper character to be associated with young persons.

Q. That induced you to make that remark that you would have nothing to do with him?—A. That was one of the things. Then his manner and conduct before the tribunal was such that it gave me the impression that he was perfectly well aware of what he was doing. He went into Mr. Washburn's private character. He was not satisfied to speak of his official character, but spoke of what he had done before he went to Paraguay, and alluded to Mrs. Washburn.

By Mr. WILKINSON:

Q. Did it occur to you that when that confession was made, these untruths were stated in such a way as to carry along with them a refutation of the whole thing—that the facts were so clearly untrue, that those who knew the circumstances would not believe it?—A. I supposed that it was made for an object.

Q. Were you not aware before you went to Paraguay that Lopez was in the habit of resorting to torture to compel his prisoners to confess?—A. I heard that through Mr. Washburn.

Q. You heard that previous to going there?—A. Yes, sir.

Q. Was there any effort made by any of the officers, or by Minister McMahon, to ascertain the real condition of things relative to the capture and imprisonment of these two men?—A. Not by any of the officers that I know of. General McMahon had no communication with Lopez until after Bliss and Masterman were delivered on board the *Wasp*.

Q. Did any of the officers ask Bliss and Masterman as to the condition of things in Paraguay after they got on board the vessel?—A. That I do not know. I frequently saw them talking with officers of the ship.

Q. Did you ever see Admiral Davis confer with them?—A. I have with Mr. Masterman. Admiral Davis told me that the first request Mr. Masterman made was not to be

placed on the same footing with Mr. Bliss; that he thought it was derogatory to him to be placed on the same footing with him.

Q. When you went to the tribunal you was prejudiced against Mr. Bliss from what you heard?—A. I had a very unfavorable impression of him. Mr. Masterman I knew nothing about.

Q. Did you not know that Mr. Washburn, the former minister there, regarded these men as innocent of the charges that Lopez made against them?—A. I had read Mr. Washburn's letter to Mr. Stewart.

Q. What did you understand as the reason why you and Captain Kirkland should go out there and listen to the confession; what was that for?—A. It was the request of Lopez.

Q. But why did he want you to come out in the midst of his army and listen to this confession?—A. My idea was that he intended to send these declarations to the government at Washington, and their correctness having been certified to by Mr. Bliss and Mr. Masterman, in the presence of two American officers, it would rather add to their official character and give them force.

Q. Had you any idea that any good could be accomplished when you were in the midst of his army, with no force with you?—A. I do not think my being there gave any strength to them one way or the other. I was sent there simply in accordance with that letter, to be a witness—not to question the correctness of them, or anything of that kind. I was simply a witness.

By Mr. SWANN:

Q. As to whether or not these parties had signed these papers freely and not under compulsion, so far as your observation extended, and admitted their signatures to be true?—A. Yes, sir; as I understood it; these declarations which they had made at different times were to be read to them in our presence, and they were to swear to their correctness before us. We were simply two additional witnesses.

By Mr. WILKINSON:

Q. Did not that very fact convey to your mind that there was something wrong—that if these confessions were voluntary they could just as well be made on board the Wasp—that it was not necessary for you to go into the interior, surrounded by Lopez's army?—A. As I understood, Bliss and Masterman had been both formerly in Lopez's employ—Masterman as surgeon in the army and Bliss in some other capacity; that during the time they were in the employ of Lopez they committed some offenses against the laws of Paraguay.

Q. Did you suppose they were to answer for these charges in this country?—A. I understood that they were to answer before the tribunals of Paraguay.

Q. I ask you again whether or not it occurred to you that there was something wrong in Lopez wanting you to go in the midst of his army and witness this confession, and get your certificate that it was a voluntary one; that if it was a voluntary one, it could as well have been made on the Wasp?—A. I suppose they could as well be made on the Wasp; but these charges had been made before the judges, and I looked upon it as being a mere matter of form. I did not consider it a matter of importance, one way or the other.

Q. You understood the Lopez courts had resort to torture in order to extort confession out of persons?—A. I only know through Mr. Washburn's communication. I knew nothing else about it. I had not the least idea when I went there whether anything had been done to Bliss or Masterman or not. I learned on a subsequent visit to Paraguay, from foreigners, that neither one nor the other had been tortured.

Q. You learned that from one of Lopez's officers?—A. No, sir. It was from Englishmen. One of them was a surgeon in Lopez's army. His name was Skinner.

Q. Why did not Lopez allow two other Englishmen, both engineers, to leave the country?—A. He owed them both money, I believe.

Q. Don't you know, as part of the history of the country, that Lopez would not let these men go?—A. He would not if he could prevent them; but he would not resort to strong measures against them. These men were both fine engineers, and they refused all the time, so I was told, to serve in his army.

Q. Could they have left the country with you, at the time you saw them?—A. I don't suppose they could. They asked me to say to their minister they wanted to get away.

Q. Was that said in the presence of any officer of Lopez?—A. In the presence of Dr. Skinner.

By Mr. ORTH:

Q. You say that you would have nothing to do with these men. Don't you think it was the duty of our government and its officers to inquire into the real condition of these men relative to their treatment; Mr. Bliss being an American citizen, don't you think it was the duty of Admiral Davis to make inquiry as to the manner these men were

treated?—A. Yes, sir; I think it was. But before the arrival of the *Wasp* in Paraguay this whole matter had, as I understood it, been referred to the government at Washington; and when Mr. Bliss and Mr. Masterman were sent on board there was a very large package of dispatches came on board, addressed to the Secretary of State.

Q. These dispatches were from Lopez?—A. Yes, sir; and as Lopez had referred the entire case to the government at Washington, and was willing to allow it to rest there, I did not think it was our business to interfere with it.

Q. Suppose you were in Europe, and an American citizen there complained of being ill-treated by some foreign government, don't you think it would be your duty, as an American naval officer, stationed there, to inquire into all the circumstances of the case?—A. If there was no civil representative there, such as minister, consul, or chargé d'affaires, or the case had not been referred to Washington, I would investigate it.

Q. Even if it had been referred to Washington, would you not have felt it your duty to investigate the case?—A. I think it my duty, on all occasions, to get all the information I can for the government. This case of Bliss and Masterman was a very peculiar one. I had listened to their declarations, and the impression left on my mind was, that so far as I was concerned, I had better have nothing to do with the matter.

Q. Don't you think it was your duty to have informed Admiral Davis of all the circumstances that fell under your observation when you were before the tribunal?—A. I did so inform him.

Q. If you had been the superior officer there, would you not have felt it your duty to have inquired into the facts a little further after these men were released?—A. The case, as it stood when these men were delivered on board the *Wasp*, was just this: President Lopez had made his statement of the case to the Secretary of State, Mr. Seward, and Bliss and Masterman were under the protection of Admiral Davis, to be sent at the earliest convenience to the United States, there to report to Secretary Seward. They could then tell their case very much better than Admiral Davis could write about it. Minister McMahon was also going into the country, and could there get all the information necessary.

Q. Is it the usual policy of naval officers, when an American citizen has been held in captivity by a foreign government, and his release demanded by the United States, to keep him a prisoner on the American vessel after he is surrendered?—A. If it was a case in which I was called upon to act, I should inform myself fully in regard to all the circumstances of the case. If it was a case in which I was not required to act, I should not think it necessary for me to make these inquiries. In this case, as well as I can understand, all the action that was required was taken. Mr. Bliss and Mr. Masterman were demanded from President Lopez unconditionally. Admiral Davis expressly stated that it was not his place either to discuss or define their position; that he simply came there to demand that these men should be released, and the whole case then referred to the government at Washington.

Q. Do you understand that they were delivered up unconditionally?—A. Certainly, they were delivered up unconditionally. The only request made was, that they should not communicate with the enemies of Paraguay. This was merely a request—not a condition. Otherwise, they might go on shore and give a good deal of information.

Q. Do you think that these acts of courtesy were due from our naval officers to Lopez, after the treatment he had extended to our minister?—A. If I answer that question, I must give my opinion as to Mr. Washburn's conduct. I do not think that Mr. Washburn conducted himself as an American minister should have done. He had two persons in his legation whom he called attachés—Bliss and Masterman. He was informed that he could have his passports whenever he wanted them, but that Bliss and Masterman could not. He knew that when he hauled down the American flag from his legation these persons would be arrested; but so long as he staid there they would be protected. But still, knowing this, he hauled down his flag. He abandoned these two attachés (as he called them) to the Paraguayan soldiers, and left the country. Such conduct on the part of an American minister I cannot approve.

Q. How do you know that Mr. Washburn would have been safe, had he remained?—A. I only know that Mr. Washburn was the representative of the United States of America accredited to the government of Paraguay, and there was no danger for any representative of a foreign government. He could have remained there with perfect safety. I felt humiliated when I read Mr. Washburn's letters.

Q. Do you know that Lopez charged Mr. Washburn with being implicated in the same crime for which he arrested Bliss and Masterman?—A. I only know what Washburn says himself. I think that as long as Mr. Washburn was the representative of the American government, and kept his legation open, he would have been perfectly safe.

Q. Suppose they had broken up all intercourse?—A. His passports would then have been handed him.

Q. What protection would he then have had?—A. He would have been safe to the advanced posts of that country. His passports would have passed him through.

Q. Are you aware that Bliss and Masterman, knowing all the circumstances, advised

Mr. Washburn to take the course he did take?—A. I read that in the letter of Mr. Washburn.

Q. Had you any reason to doubt it?—A. No, sir.

Q. Are you not aware that Rodriguez, secretary of the legation of Uruguay, duly accredited to Lopez, was kept in the country after relations were suspended, was arrested, tortured, and executed by Lopez; and that if he did it in one case he would do it in another?—A. I know nothing about the case. I do not believe all these stories. I have dined with one of the men after it was reported that Lopez tortured and killed him.

Q. Who was this person?—A. Caminos.

Q. What evidence had you seen of his death prior to that time?—A. The same as in every other case. It was published in the newspapers as among the barbarities of Lopez. It was published in the papers that Lopez had killed his mother. It was stated on three different occasions. It was afterward reported that she had committed suicide, having become horrified by Lopez's torture of her sons. Yet she was living when I was in Paraguay.

Q. Do you believe, from these false reports, that Lopez never tortures his prisoners?—A. No, sir; I believe that he does torture his prisoners.

Q. Why do you believe it?—A. I believe it from the fact that I was told so at his headquarters. I do not mean to say that I do not believe any of these stories about Lopez. I mean to say that he has not been guilty of one-half the barbarities that he is accused of.

By Mr. SWANN:

Q. Was any effort made upon your return to Montevideo to communicate with Bliss and Masterman by outside parties?—A. Yes, sir. Early one morning an American dentist, living in Montevideo, named Dr. Bourse, came on board, bringing with him a Paraguayan named Don Carlos Saguier, and a known enemy of Lopez. Bourse said to me: "Mr. Saguier has come on board with a desire to see Mr. Bliss. He thinks that Bliss has been made a tool of by Lopez, and he wants to see and talk with him." I said: "I shall let the admiral know your request, but I do not think he will allow any communication with Mr. Bliss." I did see the admiral, and he declined to let him see Mr. Bliss. The admiral was not then up, as it was a very early hour in the morning, and I told the gentlemen if they waited they could see the admiral himself, but they declined, saying they had an engagement on shore. Mr. Worthington, minister to the Argentine Confederation, came on board at the same time, and I supposed at first they came together, but he told me they came on their own responsibility. Mr. Worthington came down from Buenos Ayres to get all the information he could from the admiral about Paraguay matters. He sent for Bliss and Masterman, had them in the cabin a long time, and had a long conversation with them.

Q. Was that the only attempt made to communicate with Bliss and Masterman?—A. That was the only one in Montevideo that I know about. They were allowed to communicate with the officers of the ship at any and all times. I know that Mr. Bliss was closeted for hours every day with Surgeon Duvall. I know this from Carpenter Mager, of the *Guerriere*, who complained of his room being used in this way. My answer was, that it was none of my business.

Q. Did you know Dr. Duvall?—A. He was surgeon of the fleet and surgeon of the *Guerriere*.

Q. Do you know anything of a misunderstanding between Dr. Duvall and Admiral Davis?—A. Dr. Duvall was tried by court-martial for overstaying his leave a week and for writing a communication to the commander-in-chief, in which he made a false statement.

Q. What was the finding of the court?—A. The finding of the court was that he had overstayed his leave one week and he had written a communication to the commander-in-chief, in which he had made a false statement; but the court acquitted him of the charges. Admiral Davis issued an order on the subject, which was approved by the Navy Department.

Q. What was the cause of all these troubles and difficulties in the South Atlantic squadron; are they usual in the navy?—A. So far as Dr. Duvall is concerned, he has made trouble wherever he has been.

By Mr. ORTH:

Q. I have been requested by Mr. Bliss to propound the following question: "Would it have been safe for Mr. Bliss not to ratify his confessions?" referring, doubtless, to the time when you were before the tribunal.—A. I do not see why not.

Q. There is another question he desires me to ask: "Did you ever see published in Buenos Ayres a portion of the document sent to the State Department?"—A. I never did.

Q. Do you know anything of a letter addressed to Mr. Bliss by the commander of the Spanish squadron?—A. I never heard of it.

Q. None was received by you or by Admiral Davis to your knowledge?—A. No, sir.
 Q. Could these dispatches which you took up to Minister McMahon on your second trip have been sent as well by flag of truce?—A. The dispatches could have been sent, but my instructions were to deliver them to General McMahon in person, and get an answer from him, as the department wanted information from him.

Q. Were you sent at the expense of the government?—A. Yes, sir.

Q. You say that Dr. Skinner told you that Bliss and Masterman were not tortured; what means had he of knowing about it?—A. I do not know. He was chief surgeon of Lopez's army.

Q. Do you believe that there was ever an organized conspiracy in Paraguay for the overthrow of the Lopez government in which Washburn, Bliss, and Masterman, or any other person, was engaged?—A. My only positive information on that point comes from Commander Kirkland, that Mrs. Washburn, wife of Minister Washburn, had stated to him in his cabin, in the presence of another gentleman, that there was a conspiracy. I have no personal knowledge of it.

Q. What is your belief in regard to the conspiracy, so far as you have heard?—A. I do not know that I have any belief on that point.

Q. What grounds had you for believing that Bliss and Masterman were accused of crimes before their connection with the American legation at Asuncion?—A. I have no positive information. It was my understanding that they were. I understood there was an affidavit on file in the British consul's office, either at Buenos Ayres or Montevideo, I do not remember which, accusing Masterman of opening letters that did not belong to him.

Q. Who did you hear that from?—A. I heard that from Admiral Davis, who was informed by one of the British consuls.

Q. Is that towel the only present you got from Lopez?—A. I got no present from Lopez. That towel was given by one of the judges.

Q. Did you get any present from Mrs. Lynch?—A. She gave me, when I was there on the 16th of May, a small ring, of work peculiar to the country.

Testimony of Rear-Admiral C. H. Davis.

NEW YORK, October 27, 1869.

CHARLES H. DAVIS sworn and examined.

By Mr. ORTH:

Question. What is your occupation?—Answer. I am rear-admiral in the navy.

Q. How long have you been connected with the navy?—A. Forty-six years.

Q. What was your command during the years 1867, 1868, and 1869?—A. I was in command of the South Atlantic squadron.

Q. Where were your headquarters?—A. Our coal depot and storehouses were at Rio.

Q. Did you hear of the troubles in Paraguay when you were stationed at Rio?—A. Yes, sir.

Q. Were you instructed by the Navy Department to proceed to Paraguay?—A. Yes, sir; but I did not receive the instructions until after I had been there and returned. I had executed these instructions in anticipation. The course I pursued was in strict accordance with those instructions in every respect, with one exception, and that was that I had conducted the correspondence instead of Minister McMahon.

Q. Were you aware of General McMahon's contemplated arrival in Rio before you left?—A. Yes, sir; and I so reported to the department in an official letter.

Q. Did General McMahon on his arrival at Rio go on board your vessel upon your invitation or at his request?—A. By my invitation. I invited him to go down the river with me, after having conferred with him upon Paraguayan matters.

Q. He was not detained at Rio any length of time?—A. A few days only.

Q. Where did you go from Rio?—A. We went to Montevideo, in the *Guerriere*, and then up to Buenos Ayres, and up the river to Paraguay.

Q. How far up did you ascend the river?—A. Up to Angostura.

Q. Did you meet with any delay or opposition on the part of the allies?—A. None on that occasion.

Q. Had you asked their permission?—A. I had received the consent of the Buenos Ayrean government and the Uruguayan government, but I think not of the Brazilian government, although the Brazilian plenipotentiary at Buenos Ayres had signified his willingness to General McMahon that we should go up.

Q. When did you receive the first official notice of the imprisonment of Bliss and Masterman?—A. I must have received the first information from a letter of Mr. Wash-

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burn to Mr. Stewart, British minister at Buenos Ayres. I then learned, for the first time, of their imprisonment.

Q. You determined *then* to proceed to Paraguay and effect their release, without awaiting instructions from the home department?—A. Yes, sir; I waited, however, for our minister to arrive.

Q. Did he bring instructions?—A. No, sir; but I considered it his business. He, as minister to Paraguay, had a right to be consulted, and, indeed, to take direction, and that was the intention of the government, as he was specially instructed to act in co-operation with me, and I in co-operation with him.

Q. Did General McMahon inform you of these instructions when he arrived in Rio?—A. No, sir; I did not receive those instructions until my return from Paraguay.

Q. In what light did you consider Bliss and Masterman—in the light of prisoners or otherwise?—A. I got my idea of their status from Mr. Washburn's correspondence, and from interviews with Mr. Washburn at Buenos Ayres.

Q. Did that interview result in confirming your original impressions?—A. He expressed the same views as he had in his letters to Mr. Stewart.

Q. Laboring under that impression you proceeded up the Paraguay?—A. Yes, sir.

Q. Was that impression changed prior to your reaching Asuncion?—A. No, sir; the course I took had been determined upon before I arrived in the La Plata.

Q. I find in these instructions, the execution of which you say you had anticipated, the following language. It is on page 117 of Executive Document No. 5. After reciting that it is unusual for naval officers to receive instructions from the State Department, Mr. Welles says: "But Mr. Seward writes me 'that the situation thus presented seems to me so critical that I have thought it my duty to advise the President that the rear-admiral should be instructed to proceed with an adequate force at once to Paraguay, and take such measures as may be found necessary to prevent violence to the lives and property of American citizens there, and in the exercise of a sound discretion to demand and obtain prompt redress for any extreme insult or violence that may have been arbitrarily committed,'" &c. I understand you to say that you had anticipated these instructions and pursued what you found subsequently were therein set forth?—A. Yes, sir.

Q. I wish you would look at this letter of yourself to Lopez, dated December 3, 1868, printed on page 89 of Executive Document 79, forty-first Congress, and state what answer you received to it?—A. That was followed by a personal interview.

Q. State what transpired in that interview.—A. The interview occurred on the evening of the 3d of December. I will read my report to the department on the subject. (This report is found on page 88 of Executive Document 79.)

Q. Did you in that interview receive a different impression in reference to the character of Bliss and Masterman than that which you entertained in the river La Plata, prior to going up the Paraguay?—A. I do not recollect that the character of Bliss and Masterman was the subject of conversation.

Q. I mean their character as American citizens?—A. I regarded them exactly in the light in which they were placed in Mr. Washburn's correspondence.

Q. Was the result of this interview with Lopez such as to change your opinion?—A. No, sir; I neither formed or could form any conclusive opinion as to whether they were criminals. My idea of their status was derived entirely from Mr. Washburn's correspondence. My mode of extricating them from that difficulty was also derived from the same source.

Q. Were your ideas changed by that interview with Lopez?—A. No, sir.

Q. After that interview with Lopez you still determined to demand and obtain prompt redress?—A. I meant to get the men if I could, so far as that could be called redress.

Q. Did you construe the language of Mr. Seward to demand and obtain prompt redress to mean only "to obtain their liberation"?—A. The course to be pursued was left to my discretion, in connection with General McMahon, and these men were represented by Mr. Washburn to be in danger of their lives and suffering torture, and, as he over and over again said, would be probably dead before I got there.

Q. In that interview with Lopez did he characterize them as criminals?—A. Yes, sir; he talked of them as criminals as he did in his correspondence.

Q. After that interview you wrote the letter marked B, on page 90 of Executive Document 79?—A. Yes, sir.

Q. To which you received the reply marked C, in the same document?—A. Yes, sir.

Q. At what time did you send Captain Kirkland and Captain Ramsay to have an interview with Lopez; was it prior or subsequent to your letter marked D?—A. It was subsequent to that. It was in the letter marked F that I offered to send them.

Q. What were your instructions to these two captains as to their mission and how they should act?—A. They were sent to witness the verification of the declarations of Bliss and Masterman. My instructions were confined simply to that.

Q. Had they nothing else to do?—No, sir.

Q. In your interview with Lopez did you demand the release of these two men?—
A. I did.

Q. What was his answer?—A. His answer was uniformly, "The men will be given up." He made no other answer.

Q. He, however, placed their delivery in the future?—A. I demanded the release of the men. I told him in that interview that I should demand their release.

Q. But he only made a promise *in futuro*?—A. He told me they would be given up.

Q. But you made a demand in your first letter and they were not delivered up?—A. The case was just as it is related in that correspondence. He said in this interview he would give them up, but requested me to withdraw that letter and write another which would be more acceptable to him as president, saying that otherwise he would be obliged to transfer the correspondence to his secretary of state.

Q. What was the object in changing the substance of the letter as it appears in A and B?—A. To carry out the object I went up there for. I would thus get them more speedily. I knew that Asuncion was about to fall, and that if Lopez left the river bank and went into the interior, as he did immediately afterward, it would have been very difficult to carry on correspondence with him.

By Mr. WILLARD:

Q. Had you sufficient force to have taken Bliss and Masterman against the wishes of Lopez?—A. No, sir.

By Mr. ORTH:

Q. When did you first hear of the confessions of Bliss and Masterman?—A. I do not know when I heard it for the first time.

Q. Prior to that interview with Lopez?—A. In the letter of Lopez's military secretary, Palacios, to myself, he says: "I am happy to inform your excellency that the prosecuting officers who have received the orders of his excellency, with a recommendation to be brief, expect to get through in time for the embarkation of the criminals, Bliss and Masterman, by 3 o'clock of the afternoon of the 8th instant, and at the same time they have expressed a wish, which they hope will be gratified, that your excellency will name one or two of your officers who can witness, on the morning of the same day, the verifications of the declarations of both the accused in the case." I think I must then have heard for the first time of the confessions.

Q. What was your impression as to the truth or falsity of these declarations?—A. I did not exercise any judgment upon the question at all. I received no impression and did not endeavor to form any opinion.

Q. Did Captains Ramsay and Kirkland report to you what occurred at the tribunal?—
A. Yes, sir.

Q. Did either of the captains state to you what impression had been made upon their minds as to the truth or falsity of these declarations?—A. I do not think they dwelt upon that point. They spoke of the appearance of Bliss and Masterman. They spoke of Bliss as being cool and self-possessed, and Masterman as being very frightened.

Q. Did Captain Ramsay remark to you that the impression left upon his mind was, that these confessions were the result of force?—A. I do not think that he did. I think that Captain Ramsay said that some of the statements in which his name was mentioned were false.

Q. You have no recollection of Captain Ramsay making any statement in regard to the impression upon his mind?—A. I think not. The general impression, however, was, that the statements were false. That was the impression upon my mind before I went up the Paraguay, and was produced by Mr. Washburn.

Q. Have you seen any reasons for changing that impression?—A. I had not at that time. I have seen since.

Q. Did these captains report to you, after their return from the tribunal, any promise or pledge upon the part of the Paraguayan authorities that these prisoners should be released on any subsequent day?—A. Yes, sir. They were brought on board on the 10th. I expected them on the 9th.

Q. Did you have any interview or correspondence with Lopez between the 8th and the 10th?—A. No, sir.

Q. At what hour of the day were they sent on board?—A. About 11 o'clock at night.

Q. Did you see them on their arrival?—A. No, sir; I had retired.

Q. Had you left any instructions, prior to retiring, as to how they should be received?—A. No, sir.

Q. When were you informed of their arrival?—A. Immediately upon their coming on board.

Q. Did you give any instructions at that time as to how they should be received?—
A. Yes, sir. I gave instructions that they should be taken care of and given some food. I mentioned particularly that food should be supplied them.

Q. How were they treated on their arrival; were they kept as prisoners or free-men?—A. I have a report here made to the department, which I would like to read to

the committee, in explanation of the manner in which they were treated. It is a letter officially forwarded to me, for my information, by Captain Kirkland, of the *Wasp*. The writer of the letter is Mr. H. C. Wisner, an ensign in the regular navy, who was on board the *Wasp*, and is addressed to his commanding officer.

"UNITED STATES STEAMER WASP, (4th rate,)
Montevideo, May 29, 1869.

"SIR: In obedience to your request of yesterday I give the following account of the reception and disposal of Messrs. Masterman and Bliss on board this vessel, on the evening of December 10, 1868.

"I was officer of the deck from 8 p. m. until midnight of that day, this vessel then lying just below Angostura battery, in the Paraguay River.

"About 11.30 p. m. a canoe came alongside, and a Paraguayan officer came on board and requested to see you. I sent the orderly to report to you, and in a few moments you came on deck, and after speaking to the officer you said to me: 'Let those men come on board.' Bliss and Masterman then came on board. Both saluted and spoke to you. You said to them: 'Well, you are safe enough now;' upon which Bliss remarked: 'Yes, I believe we are at last out of the hands of the Philistines.' You then said: 'Mr. Wisner, send for the master-at-arms and let him take these men forward to the yeoman's room, and do the best you can for them.' Bliss then said: 'Captain, I hope you do not take us for mechanics;' and Masterman: 'Captain, I think you mistake us. Mr. Bliss is the son of a minister, and I was once a lieutenant in her Majesty's service.' Bliss said: 'I only spoke as I heard you address us as *men*; to be sure when you last saw us we were considered as criminals.' You then remarked: 'Would you have me call you women?' Masterman replied: 'No, sir; but I hope you will not consider us guilty until we are proven so.' You then said to him: 'Your guilt or innocence will be determined when you reach the United States. I will make you as comfortable as I can, and if you do not wish to sleep below you can remain on deck.' You then called me one side, and told me to make them as comfortable as I could; to put a sentry over them, and give him orders not to let the men interfere with them; to keep his eye on them, and go with them if they wished to move about.

"I took them forward of the hurricane deck, and they told me it was so warm they would prefer to sleep on deck; they were very tired, and would be comfortable enough anywhere. The thermometer stood 102 F. at the time.

"I then had some sails spread for them and they went to sleep.

"I offered to have some coffee made. Mr. Bliss thanked me and said: 'We are so tired and sleepy that we will wait till morning.'

"I then placed a sentry over them, and gave him the orders before mentioned, and left them apparently very comfortable.

"Very respectfully, your obedient servant,

"H. C. WISNER,
"Ensign United States Navy.

"Lieutenant Commander W. A. KIRKLAND,

"U. S. N., Commanding U. S. S. *Wasp*, (4th rate).

"Forwarded for the information of the commander-in-chief.

"W. A. KIRKLAND,
"Lieutenant Commander, Commanding."

Q. When did you first see Bliss and Masterman?—A. I saw them the next day at a distance.

Q. Were they then in charge of a sentinel?—A. They were not. They had a person to look after them all the time.

Q. Did you regard them as prisoners on board the *Wasp*?—A. No, sir; and if the committee will allow me I will read an extract from a letter I addressed to the Secretary of the Navy on the 29th of January, 1869, after they had left for the United States, which will explain how I did regard them. "Messrs. Bliss and Masterman were received on board as temporary visitors, were admitted to the forward officers' mess, and were not allowed to pay any compensation for subsistence. Their situation was anomalous and was one that could not have been anticipated by any provision of law. The papers which I sent through the department to Mr. Seward, (those papers were sealed and I never saw them except in their inclosures,) and other circumstances; above all, the scandalous defamation by Mr. Bliss of our late minister at Paraguay, directed against his private life as well as his public character, will account for an estrangement toward the gentlemen felt by some of the officers. While they were unrestricted in their movements they were overlooked to prevent the enemies of Paraguay from communicating with them; this supervision was subsequently removed at Mr. Masterman's request." This states the condition they were in, and I wish to state to the committee that these men could not have been made prisoners in the squadron under my command by the authority of any one except myself; that I never gave such au-

thority, and that any statement, by whoever made, which declares that these men were ever regarded as prisoners in the squadron under my command, is incorrect in point of fact.

By Mr. WILKINSON :

Q. You state that these men were received on board as "temporary visitors." Is it usual in the navy, when a person temporarily visits a ship by permission of the commanding officer, to place a sentinel over him?—A. It would be under those circumstances. My first duty in regard to these men was not to allow them to communicate with the enemy; that is required by military law and usage, and I had no confidence in the individual honor of these men such as would lead me to trust to their not doing it.

Q. Two of your captains were in the enemy's country; would you permit them to communicate with the enemy?—A. They would not do it. It would be a violation of honor to do it.

Q. Had you any reason to believe that Bliss and Masterman would communicate with the enemy?—A. I had some reason to believe it. It was a matter in which I would not run any risk. I considered the character of these men doubtful, particularly Mr. Bliss.

Q. You considered the character of Mr. Bliss doubtful from the fact that he maligned the character of Mr. Washburn, both his official and personal character?—A. Yes, sir.

Q. I suppose you have reference to the book Mr. Bliss wrote?—A. Yes, sir.

Q. Had you seen that book before you received them on board?—A. Yes, sir; I had a copy of it.

Q. Did you believe that book to be true?—A. I never formed any opinion about it. I never read much of the book. I only read enough to see that Mr. Bliss had introduced in it statements relating to events of his early life which occurred many years before he went to Paraguay. They had no connection with Lopez, and therefore amounted to wanton defamation.

Q. That was the impression made upon your mind?—A. Yes, sir.

By Mr. SWANN :

Q. Did you make any memorandum of those extracts?—A. No, sir.

Q. Have you a copy of that book with you now?—A. No, sir; I have a copy in New York.

Q. Could you furnish the committee with translations of extracts from the book?—A. Yes, sir. There is one thing, however, that cannot be translated very well, and that is the tone and style of the book—its sneering, sarcastic manner.

The following are the extracts furnished by Admiral Davis :

[Translation.—From Porter C. Bliss's "Historia Secreta," &c.]

"Washburn was born in the State of Maine, some forty years ago. He is one of the younger of seven brothers, of whom the elder dispersed through several States, have advanced in fortune and influence to such an extent that three of them have met in the halls of Congress in Washington, as representatives from three separate States, to which circumstance it is owing that Charles has been able to take part in politics.

"In this very respectable flock our hero was the *black sheep*—the real Jonah of the ship! Among other *precious* qualities which adorned this *hope of the family*, and which caused serious anxiety to his parents, was a *constitutional inability* to distinguish "*meum et tuum*." * * *—pp. 2 and 3.

* * * "His family destined him for the army, and having obtained, through the efforts of a member of Congress, a nomination as cadet in the Military Academy at West Point, he went at the age of nineteen years to that place, to enter upon the course of studies that were expected to make of him a *Grant!* or a *Napoleon!* But what must have been the surprise and shame of his respectable family when, after a few days, they saw the expected future conqueror and military glory of his race return with his head down on account of his not having been able to pass the examination previous to his admission to that school where the heroes of the last civil war were educated!!

* * * He then endeavored to correct somewhat the defects of education on which his hopes of military glory were shipwrecked, by means of a course of study in Bowdoin College, in his native State. It must be admitted for truth's sake, that our *talented* youth acquired some tincture of Latinity, for even now he is in the habit of sprinkling some pedantic display of it through his conversation with those who are familiar with the idiom of Cicero; for, as it is said, 'a fool cannot be *wholly* a fool without knowing some *Latin*.'—p. 4.

* * * "It is a source of real regret to the author to be obliged to state that his *learned* hero did not emerge from his studies with academic honors, for a *mysterious event* clipped his wings! The cause of this misfortune is not perfectly clear, and was one of those matters concerning which he always preserved a significant silence; but the explanation supplied by *rumor* is, that the event was not altogether disconnected with the disappearance of certain *silver spoons* from the table of the academic commons!

"If such were the case, the prudent reader must not attribute this little circumstance to a want of honor on the part of the punctilious hero, but to his well-known *organic infirmity of kleptomania*.—p. 6. * * * *

"Through the influence of his elder brothers, who, as has been said, had already reached respectable positions in the state, he obtained an appointment to a place in the office of public lands, (General Land Office,) in Washington, with a compensation of \$1,200 per annum. It might now be supposed that, launched so early in the *official* career, and enjoying the advantage of having relatives in Congress, our hero would make gigantic strides toward the realization of his golden dreams of greatness! Alas! again the inexorable shears of the fates cut the thread of his aspirations! After enjoying for a few months the pleasures of the capital, another *painful and unexplained event* occasioned his expulsion from his new position *without carrying with him a certificate of character*!—p. 7.

* * * "There is no doubt that our hero passed those few months of his career in Washington abandoned to the pleasures and orgies of the capital, *sowing his wild oats*, as the saying is, in connection with the dissolute youth he met there, and left behind a well-established character as a *rake*, and as one addicted to the *bottle*, to *gambling*, and to the *pleasures of the table*. He reformed his *religion* with the new dogma of making a *god of his belly*, and conceived the firm purpose of getting money—honorably if possible, but in any case *getting money*! He carried his real ruling passion for gold to such an extreme, that one who knew him well has said of him, that *he would steal the coppers from the eyes of a dead negro*! and that 'if the devil should spread his nets for Washburn with the bait of half a real, he would *catch his soul*!'

"But Lucifer is not as niggardly as our hero, and has thrown him his bait of some good thousands of ounces."—p. 8.

By Mr. ORTH:

Q. What is your present impression in regard to that book?—A. I cannot refer to Mr. Bliss's testimony now, but when he was spoken to on that subject by Mr. Worthington, at Montevideo, he said what amounted to this: That besides the false charges that he had been compelled to bring against Mr. Washburn by Lopez, he had also introduced other supererogatory statements in such a manner as to destroy his own credibility; and it was this supererogatory matter that destroyed my reliance on his character.

Q. Were you not aware that Mr. Washburn had told Bliss and Masterman to take any course which they might deem necessary in order to save their lives; to implicate him in the conspiracy if they desired?—A. The point I make is not in regard to the statements touching Mr. Washburn's life in Paraguay, but things which do not affect Washburn's relations to Lopez or to Paraguay. I do not think I ever heard that Washburn ever gave Bliss license to write these things.

Q. Do you recollect Mr. Washburn making any statement to you, saying that he gave Bliss and Masterman full license to say anything about him they pleased?—A. No, sir, I do not; but whatever Lopez compelled Bliss to say under threat of torture must be necessarily limited to occurrences in Paraguay.

By Mr. WILKINSON:

Q. You say you regarded these persons as temporary visitors?—A. Yes, sir.

Q. I do not exactly understand that term. Suppose I came on board; I would be a temporary visitor?—A. I do not desire to justify the term as strictly applicable. We have a place on board a man-of-war for everybody. If you went on board the ship you would be probably a passenger. If I were to take a destitute man from a foreign port to the United States, he would come under such a head as "distressed seaman." We have a term that applies to everybody that comes on board the ship, under every supposable case; but this was an extraordinary case—one which could not be anticipated; and in accounting for the expenditure thus incurred I spoke of them in that way. They did not come under any special head.

By Mr. WILLARD:

Q. Then it was not to define the real status of these men that you applied this term to them, but merely to account for their expenditure?—A. Yes, sir. I think their status on board the vessel is more nearly defined in Mr. Washburn's dispatch, which formed the basis and ground for my demand for them. This language he used in respect to these men before I went up there, and it was from it I took my cue as to my action in the case. He writes:

"The law of nations clearly prescribes the course to be followed when persons, members of a legation, are found to be engaged in any unlawful acts. It says that the government which it has offended may ask that they shall be sent to their own country to be tried, when the minister will be bound to comply with the request. Therefore, if the charges and proofs against Mr. Bliss and Mr. Masterman shall be furnished me, with request that they should be sent to their respective countries to be tried, I shall

then have no alternative but to comply, and at the first opportunity send them away—the one to the United States, the other to the custody of the English minister in Buenos Ayres. This course it is hoped will be satisfactory to the government of Paraguay, as it will remove persons obnoxious to it from the country, and will subject them to trial according to the laws of their own countries, and as there is little doubt that an American gunboat will soon be in these waters, there will probably be but little delay in carrying it into effect.”

The only object I have in reading this is to show my theory of the case when I went up to Paraguay. Before I went, of course I had to form an opinion of the course I was to pursue, and in looking at the dispatches of Mr. Washburn, I decided not to attempt to exercise any discretion in their case, or any judicial functions, but to demand them in the same manner and under the same circumstances that he had demanded them.

Q. Did Lopez make any terms or conditions with you as to how they should be treated when they were put in your possession?—A. No, sir. He merely requested that they should not be allowed to communicate with his enemies. That, however, was an unnecessary request. Even the women and children that were taken away by the Italian and French gunboats were not allowed to land. They were put on board the passenger steamer and sent off immediately. That is according to the usages of war. I did not allow them to go on parol because of the slight estimation I had of Bliss's character, formed partly from what I had read of his book and partly what I had heard.

Q. You say you met them the morning after their arrival under charge of a sentinel; did you have any conversation with them at that time?—A. No, sir. They were not, however, under charge of a sentinel as prisoners are. That phrase would give a wrong idea of their condition. A person merely looked after them to prevent them from communicating with the enemy.

Q. Was that condition changed prior to their removal to the *Guerriere*?—A. No, sir; it was not.

Q. Was it removed after they were removed to the *Guerriere*?—A. Yes, sir.

Q. Was it removed in regard to both of them?—A. I think it was; at least, I gave the order in regard to both of them. In regard to Mr. Bliss's character, I will say that Captain Kirkland told me that the American minister in Rio, in whose family Bliss was, told him that he was deficient in truthfulness; that he discharged him because he was afraid he would corrupt his children. His general character on the *La Plata* was not very good.

[Admiral Davis here read a letter written by Captain Kirkland to him in regard to this matter, of which the following is a copy:]

“UNITED STATES STEAMER WASP, (4th rate,)

“*Montevideo, June 5, 1869.*

“ADMIRAL: I have just read the reports of the treatment of Bliss and Masterman on board the *Wasp*, and am astonished that two such votary slanderers should have received credit among our enlightened countrymen.

“Almost every assertion made in Bliss and Masterman's memorial, with which my name is connected, is either false, or else is so entirely changed in spirit as to render it untrue.

“In Bliss's declarations, where my name occurs, I believe the dates are correct; but the alleged contents of the letters exchanged between Mr. Washburn and myself are false. I attributed his bare-faced lying before the tribunal, and in my presence, to his fear of the Paraguayan officials, and therefore took no notice of it, beyond mentioning the fact to the fleet-captain, and to yourself when I returned on board from witnessing the declarations; but the new series of lies against myself and the officers of the *Wasp*, who did not invite the parties to mess with them, require a word or two by way of remark:

“In the first place, the cabin was fully occupied by yourself, your fleet-captain, General McMahon, and myself, and the wardroom and steerage were both so full of occupants that two officers of your staff slept on deck.

“Secondly, I considered Bliss to be an unfit subject to mess and live with gentlemen, as in January, 1863, General Webb had him for a private tutor, and brought him to this river from Rio de Janeiro, where he left him, because he was a natural liar, whose example the general feared would contaminate his children. This I heard from the general's own lips at that time. Bliss was also mentioned to me frequently by Washburn as “a most unprincipled man, but a walking encyclopedia of knowledge.” He was further suspected by parties in Buenos Ayres of being a spy in Washburn's house; and lastly, he was the author of the scandalous pamphlet against Mr. Washburn published in Buenos Ayres, in December last, which, false or true, should forever damn the writer among gentlemen. I also gathered from Mr. Washburn's conversation, if not from his very words, that Masterman was a poor, miserable creature, which, judging

from his manner, I should agree to ; and I am only sorry now that I did not place the pair entirely by themselves, instead of having associated two such slanderous liars with the petty officers of the ship, who are decent and honest men.

"The report of Mr. Leekron, sworn to before the consul, and that of Mr. Wisner, who was the officer of the deck when the two men were brought on board, have already been forwarded to you, and will, I hope, be laid before the committee of the House ordered to investigate the Paraguayan affair.

"I am, sir, very respectfully, your obedient servant,

"W. A. KIRKLAND,

"Commander United States Navy.

"Rear-Admiral C. H. DAVIS, U. S. N.,

"Commanding South Atlantic Squadron."

Q. The statements that are made in that letter were communicated to you before Bliss and Masterman came in your custody?—A. The statements in regard to Mr. Bliss's declarations were communicated to me the night he came down from witnessing the declarations. That part in regard to what General Webb had said was communicated to me before. I may remark in that connection that when Mr. Bliss professes it as his object in making these statements to destroy his own credibility, it is rather strange he should complain that it produced that effect on my own mind.

Q. You state that after your personal interview you wrote the letter dated December 4th ; what reply did you receive to that?—A. I received a reply from Lopez's chief military secretary, dated December 5th. It is published in Executive Document 5, page 90.

Q. Then I understand from this letter that Lopez refused to deliver them up to you under the terms of your letter of December 4th?—A. Yes, sir ; he expressly stated that I should recognize them as criminals.

Q. When he made that demand on you that you should acknowledge them as criminals and as accomplices of Mr. Washburn, what reply did you make?—A. I stated to him in words that, "it is no part of my official duty either to offer or to refuse any terms which will affect the alleged criminal condition of the two persons in question." As I have repeatedly stated to the committee, I adopted the view presented by Mr. Washburn himself with regard to these men, that I had nothing to do with their criminality ; my own government was the judge of that.

Q. Was it your agreement with Lopez that you should receive these men as prisoners and keep them in security?—A. No, sir ; there is no agreement between Lopez and myself, and nothing passed between Lopez and myself except what appears upon the documents printed.

Q. How do you consider this passage in your letter to Lopez of the 5th of December : "I have to ask your excellency to embark the accused persons, Bliss and Masterman, on board this vessel, in order that I may keep them in security, subject to the disposition of the United States?"—A. I considered it literally—in the literal meaning of the words. As I have said before, it was my expectation that these men would be glad to get out of the country and return to the United States ; and it was my intention when I took them to keep them in security and return them to the United States.

By Mr. ORTH :

Q. Mr. Washburn desires me to ask you whether you received them as criminals, and as his accomplices in this alleged conspiracy?—A. No, sir. I have repeatedly stated that I exercised no discretion whatever in regard to Mr. Washburn's difficulties, or the connection of Bliss and Masterman with them, but acted only in accordance with the course previously laid down by Mr. Washburn himself. I did not receive them as criminals or judge the case. I did not accuse Mr. Washburn, or suspect him, at that time of being in a conspiracy. At that time I did not believe, from the representations made to me by Mr. Washburn, that there was any conspiracy.

By Mr. WILKINSON :

Q. You stated you went up the Paraguay and acted in strict accordance with the instructions you afterward received from the Navy Department and Mr. Seward, with one exception, and that was, that the correspondence was conducted by yourself instead of by Minister McMahon?—A. Yes, sir ; they were in strict accordance with those instructions, with the exception that Mr. Seward authorized General McMahon to conduct the correspondence before he presented his credentials. General McMahon and myself, after consultation, thought that it was not expedient to do that.

Q. In this letter which Mr. Welles addressed to you December 12, 1868, he quoted from a letter Mr. Seward addressed to him, and makes it a part of his letter to you. He says that Mr. Seward writes him that "the situation thus presented seems to me so critical that I have thought it my duty to advise the President that the rear-admiral should be instructed to proceed with an adequate force at once to Paraguay, and take such measures as may be found necessary to prevent violence to the lives and property

of American citizens there, and, in the exercise of a sound discretion, to demand, and to obtain, prompt redress for any extreme insult or violence that may have been arbitrarily committed against the flag of the United States or their citizens." You have stated that you acted in accordance with these instructions, which you afterward received. I wish you now to state whether, after receiving this letter from Lopez, dated December 5, it was not proper for you to repel the insult therein contained, charging this crime upon Mr. Washburn?—A. General McMahon and myself acted in consultation together, and that was the course our judgment led us to pursue.

Q. You did not, then, in your correspondence or interview repel that insult?—A. I did not mention Mr. Washburn in any of my correspondence.

Q. Did you not regard it as an insult to the American government to charge that crime against its minister?—A. It was no doubt very injurious to the American government that the charge was so made, but it was not my province to form a judgment as to its truth or falsity.

Q. Is it not your duty, as the representative of the American navy, to repel an insult of that kind against an American minister?—A. I did not consider that at that time I was called upon to act as Mr. Washburn's vindicator, or to decide on his guilt or innocence.

Q. Did you not regard him as the agent of the United States?—A. Does it follow, then, that I am necessarily his vindicator?

Q. It would be, I think, after you were instructed in terms to redress any insult.—A. With regard to that I have only to say, that I took that course after consultation with General McMahon.

Q. You and General McMahon decided, then, to take no notice of that charge by Lopez?—A. I do not think we took any notice of the charge at all.

Q. Was not your mind called to it?—A. No more than by the correspondence before. What he said in that letter was only what he had said over and over again in his correspondence.

Q. You then thought it was perfectly proper for you to pass that by in silence?—A. Yes, sir.

Q. Do you still think so?—A. I do.

Q. Do you think that where an American citizen is deprived of his liberty, or injured in any way, by a foreign power, that his personal character makes any difference as to the duty of this government to vindicate his rights?—A. No, none whatever. I demonstrated that when I took Walker and his companions out of Nicaragua. When it was said by some persons that I had better had left them there, I replied, that if a man falls overboard we do not stop to inquire as to his moral character before we throw him a rope. I would render assistance to any man in danger, whether he was a good or a bad man, as I did in the case of Bliss when I got him out of the hands of Lopez, who, it was represented to me, had killed him half a dozen of times, and in half a dozen ways.

Q. Then this story that Captain Kirkland writes to you about General Webb turning him away was entirely immaterial to you?—A. Yes, sir.

Q. Why, then, do you introduce this letter as evidence?—A. I have expressly stated that I introduced it to show why I kept Bliss under surveillance when he came in my squadron. I thought it necessary to do so to prevent him from violating the rules of war.

Q. How long did Bliss and Masterman remain on board your ship?—A. My letter requesting them to take the mail steamer to the United States shows the time. It is dated at Rio, January 23.

Q. How long did you remain at Montevideo?—A. I think I must have left the 17th or 18th of January.

Q. Why did you go from Montevideo to Rio Janeiro?—A. To meet the mail, partly, and partly for the disposition of Messrs. Bliss and Masterman.

Q. Was it primarily your object to dispose of Bliss and Masterman?—My primary object in going was to get the mail. I expected to receive instructions from the government in relation to the recent occurrences, and particularly in relation to those prisoners.

Q. Was not there a regular mail service between Montevideo and Rio Janeiro?—A. I wanted to be there in time to send replies by the return steamer.

Q. Suppose these men had refused to go to the United States, what would you have done?—A. I would have let them go on shore at Rio. I considered it my duty to keep them on board the vessel until I left the seat of war.

Q. What was the cost of running your vessel from Montevideo to Rio?—A. I could not tell without making some calculation.

Q. How much coal would it take?—A. About two hundred tons.

Q. Had you any conversation about the 1st of October, 1868, with the admiral of the British fleet in relation to the course of Minister Washburn in Paraguay?—A. I think it is very probable I did, but none of any importance. The difficulties in Paraguay were then the principal topics of conversation, and we talked of them a good deal.

Q. Did you not tell the British admiral that you thought Minister Washburn's testimony in regard to Paraguay matters was not to be relied upon?—A. I do not think I did. Such, however, is my present opinion.

Q. Do you remember telling him you had received private information from Captain Kirkland differing entirely from the statement made by Mr. Washburn?—A. No, sir. But I say now I did receive a letter from Captain Kirkland—not private, but unofficial—which influenced my conduct in the matter. It contained some information. I do not know that it was different, but additional to that contained in the public dispatches.

Q. Have you that letter?—A. Yes, sir. It was written to me on the return of the Wasp from Paraguay when she brought down Mr. Washburn and his family.

“ U. S. S. WASP, (4th rate,) SOUTH ATLANTIC SQUADRON,
“ *Montevideo, September 28, 1868.*

“ADMIRAL: In forwarding to you my report of proceedings, &c., during the service performed by the Wasp on her last trip to Paraguay, I limited myself to a mere official statement of the particular duty performed by the vessel and by myself.

“As his Excellency, Mr. Washburn, has published in the newspapers of the La Plata his correspondence with the Paraguayan government, and as my name occurs in connection with one or two of his statements, I think it proper to inform you, unofficially, of several incidents which I cannot give an opinion on, but which, I suppose, you might possibly wish to furnish to the government.

“On the 2d day of September, I first visited President Lopez. I inquired after Mr. Washburn, and Lopez replied, ‘I am sorry to say we are very bad with Mr. Washburn.’ I said that I was very sorry to hear it. Lopez said, ‘Mr. Washburn is an enemy to Paraguay.’ I said I didn’t believe it; and he continued; ‘I do not doubt it; I have the proofs.’ I then said again: ‘I do not believe it, but if he is, it is none of my business.’ Lopez then said, ‘I wish you to take a part in this, and try to arrange the matter between myself and Mr. Washburn, as I am very loth to take any step inimical to the United States.’ I replied that my mission was a specific one; that I was not a diplomat, and that I would not interfere in the matter in any way. He remarked that unless the thing could be arranged, he feared he would have to detain Mr. Washburn; and I answered him, as nearly as I can recollect, as follows: ‘Any steps taken against the United States minister will be avenged by that government, even should the minister be in the wrong in the first instance. Your duty is to allow him to depart peaceably, and to refer your complaint, if you have any, to the President of the United States; and you may rest assured that if the minister has been guilty of unfriendly acts to the government of Paraguay while residing in your country, that he will be called to account for it; but, if you take the law in your own hand, and insult his sacred diplomatic character by such an act, a fleet of six light-draught monitors, with fifteen and twenty-inch guns, which was in Pernambuco, bound to this river for the purpose of forcing the Brazilian blockade, will take sides with the allies, will pass your batteries, knock down your towns and cities, and the government of the United States will hunt you over the world, and demand you from any government that may have given you shelter. I shall wait a proper time, and if Mr. Washburn is not put on board, or I am not allowed to embark him with the means at my command, I shall return immediately, and report to the government that he is a prisoner at your hands.’ Lopez then asked how long I would remain. I replied, ‘Only a few days, as I have strict orders on the subject.’ Lopez, after a short while, said: ‘You are right; I will let Mr. Washburn go, and will represent his conduct to his government.’

“My opinion is that Lopez wished to have the ship in the river, as appearing to give him a moral support; and he wished to ascertain whether I would remain an indefinite length of time awaiting Mr. Washburn; because, as soon as I told him that I would only wait a proper length of time, and that I would not inform him what that length of time would be, he immediately said that Mr. Washburn should be embarked as speedily as possible. I have no idea that Lopez’s remark was intended as any threat against Mr. Washburn’s liberty; but he was very anxious to have the ship in the river, if possible, and thought he could accomplish that by temporizing.

“Mr. Washburn was a good deal agitated on reaching the ship, and at the dinner table stated that, in his belief, I had saved his life. I mentioned what Lopez had said about detaining him, upon which he made use of strong and rather undiplomatic language, in a note which he addressed to Lopez after passing his batteries.

“Lopez told me that Mr. Washburn had refused to leave Asuncion when the city was ordered to be evacuated, and that he had sheltered a lot of persons who were intriguing against the government; that he, out of respect for the United States, had allowed him to remain, and had done nothing to endanger his house, either by putting batteries near it, mining, or by any other means which an officer fortifying a place could have readily made use of to disencumber himself of a troublesome tenant.

“Mr. Washburn told me that he had never heard anything of a revolution or conspiracy against the government; but, on one occasion, Mrs. Washburn, when her hus-

band was not present, said that there was a plan to turn Lopez out of power, and to put in his place his two brothers, Verancio and Benigo. As Mrs. Washburn had entirely agreed with her husband when he emphatically denied ever having heard of any plan, this admission on her part rather astonished me; but I did not comment on it.

"Mr. Washburn remarked to me that he would like to stop near Caxias's headquarters, expressing his intention of informing the allies of Lopez's force, position, sources, &c. I informed him that such conduct on his part would be a violation of the neutrality which we were bound to regard; and that if he did such a thing, I should feel it my duty to report the fact to our government. He replied that he was responsible for his actions; and I informed him that I was also responsible for the actions of persons on board the Wasp, and that I would not stop at the place mentioned. However, when I stopped to board the Brazilian admiral at Villa Franca, a Mr. Gould, British chargé d'affaires at Buenos Ayres, a declared enemy of Lopez, and open friend of Brazil, came on board from Her Britannic Majesty's gunboat Linnet, and Mr. Washburn gave him the above information, which was transferred to the Brazilian admiral immediately, and thence sent to Buenos Ayres, and published in the newspapers before our arrival.

"I have the reputation with Mr. Washburn of having saved his life; and although I regard the fear, on his part, as entirely imaginary, I have not taken the trouble to make him feel himself less of the martyred diplomat, and am, consequently, on the best of terms with him.

"He informs me that he wrote a cheerful character for Captain Crosby, which he addressed to the Secretary of State, and which he has no doubt was the cause of Commander Crosby's promotion. He has promised to do the same thing for me; and I only hope he will. You will see by the papers the different steps taken by Mr. Washburn, which require no comment.

"I am, sir, respectfully, &c.,

W. A. KIRKLAND,

"Lieutenant Commander, Commanding U. S. S. Wasp."

"Rear-Admiral C. H. DAVIS, U. S. N.,

"Commanding South Atlantic Squadron."

Some parts of that letter, I may mention, were sent to the department when it was received. That part of letter relating to Mrs. Washburn, and to Mr. Washburn's desiring to communicate the military condition of the country to the Brazilian commander-in-chief, was not mentioned.

Q. I wish to call your attention to an article published in the Buenos Ayres Standard of December 23, and mentioned in Dr. Duvall's testimony. Was not that information necessarily furnished by some officer on board the Wasp?—A. I have not the slightest idea.

Q. Did this paper have any means of obtaining information as to what transpired in Paraguay, except through some persons connected with the Wasp?—A. Vessels were going up and down constantly.

Q. I mean as to what transpired between the officers of the Wasp and Lopez?—A. No, I should think not.

Q. Could any correct information have been received at that time at Buenos Ayres except by being brought down by some party on board the Wasp?—A. I know nothing about it, nor have I the slightest reason for supposing that it proceeded from the Wasp.

Q. This extract states that Bliss and Masterman are held as prisoners.—A. That is not true. They never were prisoners. They went about the ship as much as anybody else.

By Mr. SWANN:

Q. Did you suffer Mr. Bliss, after you arrived at Buenos Ayres, to receive any communication from the shore?—A. He did receive communications from the shore.

Q. Did you open and examine them?—A. I think I opened one. I cannot recollect, but generally I sent them to him after looking at them.

Q. Do you remember a letter to Mr. Bliss from Captain Hill?—A. Yes; I think I do. I have a partial recollection of it. I have no recollection of its contents.

Q. The letter was dated December 30, and detained by you until January 7?—A. I do not think that is correct.

Q. Dr. Duvall has testified here that on January 7 he found Mr. Bliss in great agitation over a letter he had just received from one Captain Hill. The letter was dated December 30, had been opened and sent to him some ten days afterward, but that the agitation of Mr. Bliss arose from the fact that it was very important he should answer the letter, but it was then too late, as Captain Hill had gone away.—A. I have no recollection of the circumstances.

Q. What was your practice in respect to transmitting letters for Bliss and Masterman?—A. I gave them, generally, to Captain Ramsay, my fleet captain; I always sent them immediately.

Q. Did you permit them to receive or send letters without their first being opened

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by you or some other officer?—A. They did send letters without being read, so far as I know.

Q. With your consent?—A. Yes, sir.

Q. What was the general rule upon the subject?—A. They were not allowed to have any correspondence with any of Lopez's enemies.

Q. Were the letters they received inspected?—A. I think not. I never inspected them, although I felt authorized to do it. At the same time I forbid their corresponding with parties whom I believed represented the allies.

Q. Was there any difference in your treatment of these two men?—A. There was after they had been on board the *Guerriere*. I cannot say a difference in treatment strictly. Mr. Masterman, while he thanked me very cordially for my kindness and for having saved his life, relieving him from a scene of suffering and torture, said that the only complaint he had was, that I had obliged him to mess with Mr. Bliss, whom he denounced in bitter terms, to which I replied that they came together on board the ship, were associated together in my mind, and I had no idea there was any difference or any ill-feeling between them. Mr. Masterman had several conversations with me in which he impressed me as a man of very fair intentions and simple character, but rather deficient in manhood.

Q. What was the difference in treatment that they received?—A. It principally amounted to my talking with Mr. Masterman.

By Mr. ORTH:

Q. What was your reason for making any difference in your treatment or feeling between those two men?—A. My becoming acquainted with Mr. Masterman, his coming up and talking with me. The only difference consisted in this, that I talked with Mr. Masterman and did not with Mr. Bliss.

Q. Mr. Masterman states that after he told you he was not a friend of Mr. Bliss, that you treated him better?—A. That statement is not strictly correct.

Q. Were they both under the same surveillance prior to your arriving at Rio?—A. I made no distinction between them in my orders.

By Mr. SWANN:

Q. Did Mr. Masterman state to you the grounds of his objection to Mr. Bliss; whether there were any distinct charges, or did he talk of his general character?—A. General character. He did not enter into details; I did not encourage him to do so.

Q. Did not Masterman claim different treatment from the fact that he had been an officer of the British navy?—A. He seems to have done so, the night he came on board, but I do not think he did afterward. The only ground he took with me was his objection to being associated with Mr. Bliss. I would observe that Mr. Masterman states himself in his declaration that he was an apothecary, and according to the regulations of the navy apothecaries are messed with the forward officers.

By Mr. WILKINSON:

Q. What regulation of the service says that employés like physician or translator of a legation, shall be put with the forward officers or with the steerage?—A. There is no regulation upon the subject.

Q. Any custom?—A. No, sir.

Q. Mr. Washburn desires me to ask you that supposing the head of the legation had actually been seized and sent off under similar terms under which Bliss and Masterman were sent, whether you would have treated them in the same way?—A. I deny that these men were sent; they came on board the ship voluntarily. Mr. Washburn ought to be perfectly well acquainted with the manner in which a minister is treated on a man-of-war while he was on board of my vessel; he was treated with the extremest courtesy.

Q. But how about his attachés?—A. It depends upon the manner in which they came on board. I have already stated that Mr. Bliss's status was determined in my mind by his scandalous defamation of his former friend and employer.

Q. I am requested by Mr. Bliss to ask you whether this surveillance or the position of the sentries placed over these men was changed as far as Mr. Bliss was concerned, after Masterman had been placed on parol?—A. Not to my knowledge. The order to accept the parol of the two was given to the captain of the ship without any discrimination.

Q. Did you accept Bliss's parol?—A. I did not see him. I consider Mr. Masterman's as covering both.

Q. Was the sentry removed from Mr. Bliss at that time?—A. I do not know. If it was kept on it was not by any order from me. Mr. Bliss's use of the word sentry is inappropriate.

By Mr. SWANN:

Q. You have stated in your testimony that at the time of your arrival in Paraguay you had formed no opinion in regard to the charges and rumors in reference to Mr.

Washburn—charges that had been made against him, and the speculations in regard to his public conduct there. Did you ever, at any other time, form or express an opinion?—A. No, sir; I do not think I ever did. I felt incompetent to form any opinion on the subject, and therefore never made it the subject of inquiry.

Q. What were your relations to Mr. Washburn there?—A. Entirely friendly. My relations were of two kinds—by letter and in person. The letters speak for themselves; they are printed. My personal intercourse with Mr. Washburn was of the same character. The last time I met him was at Montevideo, and we spent an hour together very pleasantly. Whatever ill feeling Mr. Washburn may entertain toward me has grown up since I saw him the last time.

Q. How do you account for it?—A. I do not try to account for it. I suppose some of my enemies prejudiced his mind.

Q. Have you any idea of any person or persons that may have prejudiced him in regard to this?—A. Yes, sir. I think it is very probable that General Webb did.

Q. You had frequent communications with General Webb?—A. Yes, sir.

Q. How were your relations with him?—A. My relations with him were friendly up to the time of these occurrences in Paraguay, and we then differed as to the course of procedure. He then pursued what I supposed he considered the proper diplomatic course, of denouncing me in the newspapers in Rio.

Q. Did General Webb undertake to instruct you in regard to your line of duty?—A. Yes, sir.

By Mr. WILKINSON:

Q. Why did you permit them to land at Rio, and refuse such permission at Buenos Ayres and Montevideo?—A. I permitted them to land a few hours before the sailing of the steamer. Mr. Bliss told me that morning that he wished to make some purchases.

Q. Suppose they wanted to make these purchases at Buenos Ayres, would you have permitted it?—A. Certainly, under proper restrictions. Buenos Ayres was near the seat of war.

Q. How near was Buenos Ayres to the seat of war?—A. Twelve hundred miles. Circumstances had changed in regard to Paraguay by the time we arrived in Rio de Janeiro. Lopez had been driven to the Sierra, and the allies had possession of Asuncion, and Angostura had fallen.

Q. Did you give any instructions to Captain Kirkland in regard to the treasure in Paraguay; and if so, what were those instructions?—A. At that time I did not.

Q. Did you at any time?—A. I did afterward.

Q. State what those instructions were.—A. I directed Captain Kirkland, on going to Paraguay in my absence, (that was after the release of Bliss and Masterman,) to receive any treasure that might be offered him, and with the understanding that I should share with him the responsibility. That is in accordance with the laws and regulations of the service. If Lopez or anybody else had offered to send any money down while I was there, the question would have been decided by myself on the spot. When Mr. Washburn brought treasure down, it was decided by Captain Kirkland.

Q. Had you not been advised by Mr. Washburn that Lopez would probably want to send down treasure, and that a large part of this had been stolen from foreigners whom he had seized and robbed?—A. I have no recollection of it. The truth is, as I wish to say to the committee, that in my intercourse with Mr. Washburn I talked with him as one gentleman would talk to another, not taking notes of what transpired.

Q. He made no written communication to you on the subject?—A. No, sir.

Q. Did you read the letter of Mr. Washburn to Mr. Stewart, the British minister at Rio?—A. I read the letter; but I have no recollection of that fact being stated. I read the letter to find out the condition of Paraguay. Such a statement would not interest me.

Q. Would you have taken the responsibility of instructing Captain Kirkland to bring away any treasure that may have been surreptitiously taken by Lopez?—A. I should not have instructed him in regard to Lopez's treasure, but only in regard to treasure generally. I had in my mind his sending treasure down, and, according to the usages of the service from time immemorial, if I had been there I should have been authorized to receive it. I should not know how it had been obtained.

Q. Did you take any steps, in your interview with Lopez, to ascertain whether any property had been confiscated or taken away from Bliss and Masterman?—A. No, sir. Nothing had occurred to turn my thoughts in that direction.

Q. Did you question Lopez concerning the alleged use of torture to extort confessions from Bliss and Masterman?—A. No, sir; I did not.

By Mr. WILLARD:

Q. Had you any knowledge, from any source, that they had been tortured?—A. I think Mr. Washburn said so. He said if they made any declaration it would be under torture.

Q. Did you inquire whether any other American citizen besides Bliss and Masterman had been imprisoned, tortured or executed?—A. No; I was under the impression that there were no Americans there; but Mr. McMahon went into the country immediately, and that subject was in his hands. I never heard of any other Americans.

By Mr. ORTH:

Q. Did you ever hear of James Manlove, John A. Duffield, and Thomas Carter, who suffered at that time at the hands of Lopez?—A. Manlove is mentioned in Mr. Washburn's dispatches. I do not recollect the other names.

Q. Did General McMahon ever inform you of the contents of a letter Mr. Washburn addressed to him about these men?—A. No, sir; not to my recollection.

Q. In this letter of Mr. Washburn to Mr. Stewart, which you have informed the committee you have read, is the following:

"The plan of Lopez appears to be to get this money into his hand and then, by torture or threats, to extort confessions of being either conspirators or plunderers of the treasury. On these confessions they will probably be executed, on the precautionary principle of foot-pads and other murderers, that 'dead men tell no tales.' How Lopez expects to escape with the money thus obtained I do not know. Perhaps he thinks that some neutral gunboat will take him and his plunder away at the last moment. But I here give notice that the money thus taken does not belong to Lopez. It is the property of citizens of those powers that are able to pursue it and return it to its rightful owners."

Do you remember that paragraph?—A. I do.

Q. What instructions did you give Captain Kirkland when he went up the Paraguay to bring Mr. Washburn and his family away?—A. (The admiral here read his letter to Secretary Welles dated April 23, 1868, and printed on page 41 of Executive Document No. 79, and also of May 20, 1868, page 42, Executive Document 79; also, letter to Lieutenant-Commander Kirkland, March 14, 1868, page 44, Executive Document 79; and also a letter from him to Minister Washburn, dated March 15, 1868, page 44, Executive Document 79.)

Q. What measures did you take to send that letter to Mr. Washburn?—A. It was sent in quadruplicate. I gave one copy to the American consul in Montevideo, one copy to the American consul in Buenos Ayres, one copy I left with Captain Woolsey, to be disposed of, and the other copy I sent directly to Mr. Washburn—but how, I do not recollect. I think I put it in the hands of the Brazilian commander-in-chief at Montevideo.

Q. Was there any possibility that either one of those copies could reach Mr. Washburn without a special messenger?—A. I do not know. I made use of the means that were pointed out to me.

Q. Mr. Washburn desires me to ask if you made use of the same means as you did in the case of his successor, when you wanted to send dispatches to him?—A. I leave it to the committee to judge the interest I took in the matter, when, in the first place, I ordered Captain Kirkland to go up the Parana with no other delay than that of getting up steam, and then sent this dispatch to Mr. Washburn in quadruplicate.

Q. Had you any other means of sending your letter through to Mr. Washburn?—A. I put one in the hands of the United States consul at Montevideo, to send up by some means; one in the hands of the American consul at Buenos Ayres, who, I expected, would send it up by some vessel; one I left with Captain Woolsey, with the instructions that are given in my letter to him, printed among the correspondence; and the other I sent directly, but in what manner I cannot now state; but I believe by a Brazilian vessel of war or transport.

Q. Were there any means of communication unless you sent a special messenger, or by vessel?—A. Vessels were going up and down constantly. There was no reason why letters should not go through. Mr. Washburn's object is evidently to make it appear that I was his personal enemy. I would like to read three letters I wrote to Commander Kirkland.

(The letters are printed on pages 45 and 46 of Executive Document No. 79.)

Q. Did you believe, or had you reason to believe, and if so, upon what was your belief founded, that the sending of the Wasp up to the seat of war would enable Mr. Washburn to retire from the country if he desired to do so?—A. I did believe so. It was founded upon universal experience. It was also founded upon the wish of the department that a vessel should be sent him.

Q. How far was Mr. Washburn from the blockade at that time?—A. I do not know. I understood he was some distance.

Q. Had you received permission for the Wasp to pass the blockade?—A. No, sir; we did not anticipate any difficulty. When the permission was finally refused, the case was placed by me in the hands of the American minister at Rio, who exacted from the Brazilian government permission to pass the blockade.

Q. Did you at any time express an opinion to General Webb that the Brazilians had

"How Mr. Bliss can reconcile this with the statements he has since made, I cannot imagine, but as this affair has caused considerable discussion in the United States, I deem it my duty to make the foregoing known to you.

"I am, sir, very respectfully, your obedient servant,

"THOS. Q. LECKRON,
"Captain's Clerk.

"Lieut. Commander W. A. KIRKLAND,
"U. S. N., Commanding U. S. S. *Wasp*."

"CONSULATE OF THE UNITED STATES OF AMERICA,
"At Montevideo, May 29, 1869.

On the day of the date hereof, before me the undersigned, consul of the United States of America for Montevideo and its dependencies, personally appeared Thomas Quantrill Leckron, who, being duly sworn, made oath that the foregoing statement signed by him is true, and that the facts therein stated are substantially correct.

"Given under my hand and seal of office the day and year above written.

[SEAL.]

"J. DONALDSON LONG,
"United States Consul.

"Forwarded for the information of the commander-in-chief.

"W. A. KIRKLAND,
"Lieutenant Commander, Commanding."

The next fact I will mention is that after we had been several months without communication from General McMahon, I sent Captain Ramsay and Lieutenant Commander Davis, (my son,) to go through the lines into Lopez's camp to carry dispatches to General McMahon. Captain Ramsay remained in the lines five days, and told me when he returned that Dr. Skinner, the head of the medical staff of Lopez, had told him that Lopez had never tortured Bliss or Masterman.

Q. Did you have any evidence from any person residing in Paraguay, either before or during the war, that led you to believe that there was at any time a conspiracy against Lopez?—A. Mr. Washburn in his dispatch to Senor Benitez, dated at Asuncion, July 20, 1868, uses the following language:

"You will admit that I had good reason to be surprised at the statement in your last note that a combination had been formed which, by agreement with the enemy, was to have broken out shortly in the country, for the overthrow of its government and the extermination of the army which combats for its existence. That something of a dangerous character had been discovered I had previously supposed, from having learned that certain energetic and unusual measures had recently been taken by the government. But of its form or extent, or of the persons implicated in it, I had not the most remote idea. Such conspiracies not unfrequently happen during long periods of war, but I did not suppose there were men enough in Paraguay to make such a combination at all formidable who would have the folly to attempt it. There may have been men bad enough to attempt it, but I did not suppose there were any so foolish as to engage in a combination that could not offer any other issue than their own ruin. Your note of the 16th, however, convinces me that something of the kind has been attempted. But I cherish the hope that it will be found, after full investigation, that it is not so extensive as may have been apprehended, and I am very anxious to know, as I now confidently believe that it will appear to be confined to a circle with which no person who has ever lived in this legation had any relations, connections, or intimacy, and I am fully persuaded that such a result of the investigation is the one that is most desired by his excellency Marshal Lopez."

I learned from that, that Mr. Washburn believed there was a conspiracy.

Q. Had you any other evidence?—A. Only that letter from Captain Kirkland which I have read to the committee.

Q. Do you recollect Mr. Washburn stating in a letter to Mr. Stewart, that he afterward found that the story of the conspiracy was untrue?—A. Yes, sir; I read that letter.

Q. Did you state on your return to Rio, to any person, and if so, to whom, that you had evidence of the existence of a conspiracy?—A. No, sir; all that I have said in relation to that subject was, first, the declaration of Mrs. Washburn, which, of course, I never spoke of officially, or even privately, as a matter of delicacy; second, the surprise it caused in my mind that Mr. Washburn, who had been living privately in his house, secluded from the whole world, should insist that there was no conspiracy. I could understand why he insisted that there was no conspiracy in which he took part, but why he insisted repeatedly that there was no conspiracy at all, I could not imagine.

Q. Did you at any time, while at Rio or elsewhere, express any doubt as to the truth of Mr. Washburn's statement in reference to these transactions?—A. I have answered that question in part, in saying that the declaration of Mrs. Washburn that there was no conspiracy made me waver on that point, as also did Mr. Washburn's own admission in that letter.

Q. Did you, at Buenos Ayres, have consultation with Ministers McMahon and Worthington without inviting Mr. Washburn to take any part in it?—A. I had no formal consultation with either of them, that I recollect. With these gentlemen I went to see Mr. Washburn immediately on my arrival in Buenos Ayres. I think I paid him two visits, in which Paraguayan matters were almost the only matters discussed. He was as much consulted as anybody; I thought, at the time, so much consulted that I had obtained all the information he had to give.

Q. Did you show to Minister Washburn the same courtesy that you did to other ministers?—A. Yes, sir; I invited him on board the *Guerriere*, and sent the barge for him, but he did not come.

Q. What day was that?—A. I do not recollect; it was before I went to Paraguay.

Q. When you first learned of the arrest of Bliss and Masterman, had you information that General McMahon had been appointed minister to Paraguay?—A. I had private letters stating that he had been appointed, and was going out in that steamer. That was my motive for waiting. These letters were not to me, but private letters to Captain Ramsay.

Q. If no person had been appointed as successor to Mr. Washburn, would you still have gone to Paraguay for the release of these men?—A. Certainly. If there had been no minister coming I should have acted on my own authority, but when there was a minister coming I felt it my duty to wait for him.

By Mr. ORTH :

Q. How long did you wait for General McMahon after you heard of the arrest of these men?—A. I think probably a fortnight before he arrived.

Q. When did you hear of their arrest?—A. I do not recollect the date. I think it was about October 12.

By Mr. SWANN :

Q. Are you acquainted with Surgeon Duvall?—A. Yes, sir. He was fleet surgeon of the squadron, and also surgeon of the *Guerriere*.

Q. He states in his testimony before this committee that he made application to you to go up the Paraguay in the *Wasp*, and you did not give him that permission. You asked him why he desired to go, and he said he had a new breech-loading gun, and he wanted to try it in shooting birds along the river; and he stated that afterward there was some misunderstanding between yourself and him. I should like to have your estimation of that officer, and what the relations were between you.—A. During a greater part of the cruise my relations with Surgeon Duvall were very intimate, and continued to be pleasant until my return from Paraguay. On my return from Paraguay it was officially reported to me by the commander of the ship that he had staid five days out of the ship without leave, and that when he was called upon to account for this military offense, he assigned as a reason for it that I had given him leave, a statement which was incorrect in point of fact. I ordered a court-martial in his case, and he was found guilty of the specification charging him with staying out of the ship five days without leave, and also found guilty of making a statement incorrect in point of fact, and sentenced by the court to be reprimanded. I thought the punishment was very insufficient for the grave military offense committed, and said so in a general order which was afterward published by the Secretary of the Navy and approved by him. I believe that he was the active cause of the supposed difficulty between Mr. Washburn and myself, and the real difficulty between General Webb and myself. He sympathized with Mr. Washburn and with the minister at Rio, and was opposed to me. I will offer in that connection these two statements in relation to the part which I believe Dr. Duvall has taken in bringing about the difficulties which it is the object of this committee to discuss and to consider :

“UNITED STATES STEAMER GUERRIERE,

“*Montevideo, Uruguay, April 29, 1869.*

“SIR: In obedience to your request of this date I respectfully state, that in a conversation between Fleet Surgeon Marius Duvall, Passed Assistant Paymaster John H. Stevenson, and myself, with reference to the reports of the barbarous treatment of Messrs. Masterman and Bliss while on board this vessel, upon my saying, ‘Certainly no one believes those reports,’ Fleet Surgeon Marius Duvall said, ‘Yes, I do; I originated them; I instigated them,’ or words to that effect.

“Very respectfully,

“T. S. WILLIAMS,

“*Ensign United States Navy.*

“Rear-Admiral C. H. DAVIS, U. S. N.,

“*Commanding South Atlantic Squadron.*

“P. S.—This conversation took place in the main entrance to the Hotel Oriental, Montevideo, Uruguay, on or about the 21st instant.

“T. S. WILLIAMS,

“*Ensign United States Navy.*”

"UNITED STATES STEAMER PAWNEE, (2d rate,)

"Montevideo, April 30, 1869.

"SIR: I have the honor to acknowledge the receipt of your communication of this date, inclosing a copy of a statement from Ensign T. S. Williams, United States Navy.

"The conversation alluded to in the statement of Mr. Williams occurred in my presence, and Surgeon Marius Duvall did use the language imputed to him by Mr. Williams.

"I am, sir, very respectfully, your obedient servant,

"JOHN H. STEVENSON,

"Passed Assistant Paymaster United States Navy.

"Rear-Admiral C. H. DAVIS, U. S. N.,

"Commanding South Atlantic Squadron, U. S. Flag-ship Guerriere, (1st rate.)

"Forwarded.

"J. W. B. CLITZ,

"Captain U. S. N., Com'g U. S. Steamer Pawnee, (2d rate.)"

By Mr. ORTH:

Q. If you have any statement to make, admiral, which has not been called out by any particular question, you are at liberty to make it.—A. I would like to call the attention of the committee, in relation to the cruel treatment of Mr. Bliss on board the Guerriere, to this statement in the letter of Mr. Bliss to his father, dated December 19, 1868: "I am under no restraint on board this magnificent vessel, and am treated very well by the officers." This statement is entirely inconsistent with the statements in his memorial, and they contradict each other so decidedly that it is impossible for both to be true. Then, again, I will remark, in regard to Mr. Masterman, that in a letter which Mr. St. John Munroe, the British chargé d'affaires at Rio, wrote to me, he says: "I have received a letter from Mr. Masterman, in which, although speaking in the highest terms of your kindness to him, he complains to me of the outrage to his feelings by being treated as a criminal by the officers under your command." I introduce that to show that he admitted my universal kindness to him. Mr. Masterman says to me, in another letter dated at Rio Janeiro, January 30, 1869: "I avail myself of this opportunity to thank you most gratefully for the important service you rendered me in delivering me from a cruel captivity and a probable violent death in Paraguay." I do not know that I have anything else to add. I think it must be obvious that at the time these people were taken out of Paraguay it was supposed by all persons who derived their information from Mr. Washburn's letters that they had been released from cruel torture and the apprehension of a violent death.

Q. This letter of Bliss to his father is dated December 19; was he placed under arrest or surveillance, or deprived of his liberty, at any time within a day or two after writing that letter?—A. No, sir. His condition was not changed in any manner to my knowledge or by my order.

Testimony of Commander W. A. Kirkland.

NEW YORK, October 28, 1869.

WILLIAM A. KIRKLAND sworn and examined.

By Mr. ORTH:

Question. What is your occupation?—Answer. I am a commander in the United States Navy.

Q. How long have you been connected with the navy?—A. Since July, 1850.

Q. What was your command during the years 1867, 1868, and 1869?—A. I commanded the United States steamer Wasp, attached to the South Atlantic squadron.

Q. Did you ever visit the Paraguay River while in command of the Wasp?—A. Yes, sir.

Q. What time did you first visit the Paraguay River?—A. March 19, 1867.

Q. By whose command did you make that visit?—A. By direction of Admiral Godon.

Q. How far up the river did you go?—A. I went up as far as Fort Tuyuti.

Q. What instructions had you to go on that voyage?—A. Those instructions are published in Executive Document No. 79, page 34, and are dated March 1, 1867.

Q. State to the committee how far you executed those instructions.—A. I will read my report to the admiral reporting the result:

"UNITED STATES STEAMER WASP, (4th rate,)

"Buenos Ayres, March 31, 1868.

"SIR: I have the honor to report my arrival at this place at about 1.20 p. m., having been absent about twenty-one days and four hours. As I reported in a former let-

ter, I arrived off Fort Tuyuti at 1 p. m. on the 16th instant; I immediately sent a copy of the accompanying letter to Marshal Caxias, commanding the allied armies in operation against Paraguay; I also send you herewith a copy of his reply. In accordance with the terms of it, I immediately proceeded to the headquarters of the allied army, where I was courteously received, and immediately furnished with a pass through its lines and to those of the Paraguayan army. I reached the headquarters of President Lopez about dusk, and immediately sent a telegraph dispatch to Mr. Washburn to inform him of my movements. He answered it, and as President Lopez had agreed to furnish him with a steamer to bring him down, I concluded to await his arrival there, as I should thus gain two days, which a journey to Asuncion requires.

"On the morning of the 20th, a telegraph to the above effect was sent to Mr. Washburn and he left the same evening, but his steamer ran aground and he was detained twenty-four hours. On the 23d instant, at daylight, he arrived, and I delivered to him the dispatches, and at his request remained awaiting his answers until the morning of the 26th, when, at 11 a. m. I left and returned through the allied camp to the ship, reaching there after sundown, too late to get under way that night.

* * * * *

"Very respectfully,

"W. A. KIRKLAND,
"Lieutenant Commander.

"Rear-Admiral S. W. GODON,
"Commanding South Atlantic Squadron."

Q. When did you make your second visit?—A. It was made in April, 1868.

Q. By whose command?—A. I went under orders from Rear-Admiral C. H. Davis.

Q. Please read the instructions you received from Admiral Davis.—A. The letter was written to Captain Woolsey, and by him forwarded to me with directions to execute them at once. Captain Woolsey's letter is dated April 6, 1868. Admiral Davis's letter to Captain Woolsey is dated March 16, and is published on page 44 of Executive Document 79, as is also the letter of Admiral Davis to me of March 14 on the same subject. I then addressed the following letter to Captain Woolsey:

"UNITED STATES STEAMER WASP, (4th rate,)
"South Atlantic Squadron, Montevideo, April 6, 1868.

"SIR: As my orders contain no instructions in relation to the length of time that I am to remain at the seat of war awaiting communication from Mr. Washburn, I request that you will inform me what action to take should either of the undermentioned circumstances occur:

"1. In case the commander of the allied army refuses to send the dispatches or my communication to Mr. Washburn, what length of time shall I remain at the seat of war?

"2. Should the commander of the allied army accede to my request to forward communications to Mr. Washburn, what length of time shall I await the answers to said communication?

"As the vessels of the allied squadron which have passed Humaita are short of coals, I think it hardly possible that the commander of the forces will send a vessel to Asuncion for the purpose of communicating with Mr. Washburn, and any offer of his to forward said communications by first opportunity may extend over an indefinite long time.

"I am, very respectfully, your obedient servant,

"W. A. KIRKLAND,
"Lieutenant Commander United States Navy.

"Captain M. B. WOOLSEY, U. S. N.,
"Senior Officer Present."

In answer to this I received the following letter from Captain Woolsey:

"UNITED STATES STEAMER PAWNEE, (2d rate,)
"Harbor of Montevideo, April 6, 1868.

"SIR: In reply to your communication of this date I have to state that I have neither the views of the commander-in-chief nor the authority to instruct you in the contingencies enumerated.

"It strikes me that, as nothing is said as to length of time, the admiral did not intend to limit you, the object being to get his excellency Mr. Washburn down from the Paraguay to one of the points specified upon the La Plata, and that, of course, with as little delay as possible.

"It is also my belief that the commander-in-chief expected you to be guided by your intimate acquaintance with those waters, your knowledge of the character and position of the persons with whom you have to deal, and your own experience and judgment.

"As soon after your arrival at the seat of war as practicable, you will please report, by the first reliable mail, the result of your efforts to carry out your instructions, conveying all necessary information (of course in guarded terms) respecting any obstacle that may be in your way,

"In the absence of the commander-in-chief I shall know how to act when I shall have heard from Mr. Washburn. But at present, were I to instruct you further I should exceed my instructions.

"Respectfully, your obedient servant,

M. B. WOOLSEY,

"Captain, Senior Officer Present.

"Lieutenant Commander Wm. A. KIRKLAND, U. S. N.,

"Commanding United States Steamer Wasp, (4th rate,) Montevideo."

Q. What time did you start from Montevideo?—A. I started from Montevideo April 7.

Q. Give a history of that voyage.—A. An account of all my movements is contained in the reports which I made from time to time to Rear-Admiral Davis.

Q. Furnish the committee with a copy of those reports.—A. I will read them from my letter-book.

"UNITED STATES STEAMER WASP, (4th rate,)

"SOUTH ATLANTIC SQUADRON,

"At anchor off Curupaiti, Paraguay River, April 30, 1868.

"SIR: In obedience to orders from Captain M. B. Woolsey, United States Navy, senior officer present, I left Montevideo on the 6th instant and proceeded to Buenos Ayres. Arrived there on the 7th, communicated with the United States consul, and received your letter of January 23, and another from the State Department at Washington for Mr. Washburn, minister resident at Asuncion, Paraguay. Left Buenos Ayres on the evening of the 7th instant, and proceeded up the river. On the 8th, at about 10 a. m., ran aground on the shoal to the westward of the island of Martin Garcia, through the ignorance of the pilot. Was unable to get the vessel off. On the 9th chartered a small schooner for one hundred and ten dollars, to receive our ammunition, provisions, spare chains, &c. On the 12th the United States steamer Shamokin came to our assistance, and received from the schooner the stores, &c. On the 13th, at 1 a. m., were off the bank and in the channel again, with no damage whatever, and a very clean bottom; vessel rather improved than otherwise. Received our provisions from the Shamokin and proceeded up the river. On the 16th arrived at Rosario, but were unable to commence coaling until the 17th, at midday. On the 18th finished coaling, having taken in seventy-eight tons, and steamed up the river. On the 23d ran aground twice, once below, and once in, the upper mouth of the San Gennime River. No damage done.

"On the 25th ran aground on the shoal between Points Sombrero and Sombrera. No damage done.

"On the 26th arrived at Corrientes. Was boarded by a Brazilian gunboat and informed that I could go up the Paraguay River as far as the fleet. Continued up, and at Cerrillo, the mouth of the Paraguay River, met another gunboat, which repeated the information. At Curupaiti were again boarded and allowed to anchor near her Britannic Majesty's gunboat Linnet. On the 27th visited the vice-admiral commanding, Baron de Imanha, and he at once forwarded my communications to the Marquis de Caxias, through General Arzollo, commanding the division encamped at Curupaiti.

"On the 28th I called on his excellency the Marquis de Caxias and some of the corps commanders of his army, and was shown a plan of the present defenses and attacking positions about Humaita. A copy, from memory, I herewith furnish you. The marquis promised me to forward the letters to Mr. Washburn, either on the 28th or 29th, but stated that Lopez had returned a former communication addressed to Mr. Washburn somewhere about the middle of the present month, with the intimation that he would not receive it.

"On the 29th I received an answer from my communication to the Marquis de Caxias, together with the receipt of the Paraguayan officer who met the flag of truce bearing the letters for Mr. Washburn. I send the originals herewith.

"The Brazilians are evidently anxious to have the vessel away from here, and are coolly civil—nothing more. The place is disgustingly dirty—intermittent fever prevailing—and the mosquitoes at times terrible. We are anchored off the Chaco side, about forty yards off the bank, in an unhealthy locality. I shall await the reply to my communication, allowing time for Mr. Washburn to receive and answer the dispatches, after which I shall drop down the river as far as Corrientes, about twenty-five miles, where there will be daily communication with this place, and much surer means of corresponding with yourself, besides being in every respect more healthy.

"In closing, I beg to observe that, in the exhausted condition of Lopez, he will be

unwilling to allow any one to quit the country, as correct information of his resources, &c., might be thereby obtained by the allies.

"I opine, therefore, that although he has received the dispatches, he will delay delivering them to Mr. Washburn as long as possible, and will throw every obstacle in his way should he desire to leave Asuncion and pass through the allied lines.

"The country is almost impassable, and Mr. Washburn will hardly be able to bring his family and baggage by land, even with the best conveyances. Lopez has no control over the river, and, of course, will not bring him by water, and it would be too much to ask the Brazilians to send a vessel (an iron-clad, of course) so far, when coal costs them one hundred and fifty dollars a ton. The Brazilians keep up a slow fire by night upon Humaita, but the enemy does not reply, except by picket-firing. He still has communication open by way of the Chaco. I should like orders about my further stay here, as my own judgment would induce me to return, after waiting, as above proposed.

"Respectfully,

"W. A. KIRKLAND,

"Lieutenant Commander, United States Steamer Wasp.

"Rear-Admiral C. H. DAVIS, United States Navy,

"Commanding South Atlantic Squadron."

"UNITED STATES STEAMER WASP, (4th rate,)"

"SOUTH ATLANTIC SQUADRON,

"Off Corrientes, Paraguay River, May 15, 1868.

"SIR: I have the honor to inform you that I left Curupaiti on the evening of the 14th and anchored here this morning, where I shall await instructions from yourself in case that I receive no answer from the Hon. C. A. Washburn.

"The allies have at length surrounded Humaita, but unless they storm the place they cannot expect to become masters of it under several months, as the garrison appears to be amply supplied with provisions.

"It may become possible (in the event of the capture of the Humaita) to go to Asuncion; in that case I shall take in sufficient coal here to enable the vessel to reach that place and to return here or to Rosario.

"I can thus receive Mr. Washburn at Asuncion, which I imagine to be the only feasible plan, for the reasons given in my communication of the 30th of April, viz, want of transportation to the allied camp and the unwillingness of Lopez to allow any one to leave his country.

"Before leaving Curupaiti, intermittent fever had shown itself on board, and the men were suffering from mosquitoes and malarious influences. Besides there was no communication with the ports of La Plata, and the Brazilians evinced a dislike to having foreign men-of-war in their lines.

"I called on the admiral on the 14th and informed him of my intention to lay at this place and await the answers from Mr. Washburn. He volunteered to notify me at once in case Mr. Washburn should reach the allied camp or should send dispatches, but had no idea that the first-named event would take place.

"I am, sir, respectfully, your obedient servant,

"W. A. KIRKLAND,

"Lieutenant Commander Commanding.

"Rear-Admiral C. H. DAVIS,

"Commanding South Atlantic Squadron."

"UNITED STATES STEAMER WASP, (4th rate,)"

"SOUTH ATLANTIC SQUADRON,

"Off Curupaiti, Paraguay River, May 24, 1868.

"SIR: On the evening of the 21st instant I received at Corrientes communications from Hon. C. A. Washburn, minister resident of the United States at Paraguay, which I herewith forward, marked A¹. At daylight on the 22d I got up steam and ran up to this place; the same day I wrote a letter to the commander-in-chief of the allied forces, his excellency Marquis de Caxias, sending him an extract from Mr. Washburn's letter to me, and basing upon that extract a request from myself to be allowed to pass with the Wasp through the allied fleet to a place called Sacuara, below the mouth of the river Silicuary. I send a copy marked A². On the evening of the 23d I received an answer from the Marquis de Caxias which I herewith inclose, marked B, in which he refuses permission for the Wasp to pass through his fleet, but offers to transport Mr. Washburn's family and effects by land from Pilan or Tagy to Curupaiti, provided Mr. Washburn comes down to either of those points in a Paraguayan steamer with a flag of truce.

"On the 24th I dispatched another communication to his excellency the commander-in-chief of the allied army, a copy of which I herewith inclose, marked C, and for-

warded through him at the same time an answer to Mr. Washburn, a copy of which I send marked D.

"The only point which I think requires to be remarked upon is the fact of my having requested permission, basing the request upon Mr. Washburn's statements.

"At the time of making the request, I felt that it would be refused, but as I am aware of the difficulty which Mr. Washburn created with Admiral Godon, and the great amount of letter-writing which took place between themselves, the Secretary of the Navy, and the Secretary of State, on the subject, I concluded it would save a great deal of after trouble and explanation could I throw the entire *onus* of the difficulty on the shoulders of the Brazilian marquis, which you will perceive he has offered, and I hope thus to save to the commander-in-chief and to myself a deal of troublesome correspondence with Mr. Washburn and party.

"I received from Mr. Washburn a letter from President Lopez directed to Colonels Allen and Martinez and Captain Cabral at Humaita, and another to Colonel Caballero at the fortification of Timbo, directing those officers to permit the Wasp to pass unmolested, at least so says Mr. Washburn's letter. I have retained these in case they should become useful.

"In the event of my having received permission to pass up the river with the Wasp, I had not entirely resolved upon so doing, as the river is very low, the torpedoes are of course constantly changing about, and there are several ranges of obstructions to be passed. I would have hardly considered myself authorized to have endangered the vessel and the lives of those on board unless under orders from yourself to do so or unless the case should have been a much more important one than that at present existing. I hope that as a diplomatic dodge it may meet your approbation. The Brazilians have not attacked Humaita as yet, but the rumor is that they will do so shortly. The British gunboat Linnet is here also, awaiting the downfall of Humaita in order, I believe, to precede the Brazilian fleet to Asuncion, and there embark some eighty women and children, wives and families of her Britannic Majesty's subjects detained in Paraguay by Lopez.

"It was told me the other day by the chief-of-staff, (naval,) Commodore Alvin, that Lopez had shot twenty-four or twenty-six prisoners, Brazilians, and among them a captain. His idea was that they were brutally murdered by Lopez.

* * * * *

"Very respectfully,

"W. A. KIRKLAND,
"Lieutenant Commander.

"Rear-Admiral C. H. DAVIS,
"Commanding South Atlantic Squadron."

"UNITED STATES STEAMER WASP,
"Montevideo, June 19, 1869.

"SIR: I have the honor to forward herewith my correspondence since May 20, 1868, with his excellency C. A. Washburn, United States minister to Paraguay, and his excellency the Marquis de Caxias, commander-in-chief of the allied forces in operations against Paraguay:

"On June 7, I received from Mr. Washburn the letter marked F.

"On June 8, I wrote to M. de Caxias the letter marked G.

"On June 9, I received from M. de Caxias the letter marked H.

"On June 9, I wrote to Marquis de Caxias the letter marked I.

"On June 10, I wrote to Marquis de Caxias the letter marked J.

"On June 10, I wrote to Marquis de Caxias the letter marked K.

"On June 10, at 1 p. m., called on the Brazilian admiral and took leave. He attempted to introduce the subject of my not being allowed to pass the fleet, and pointed out some passages in a French work, which I read, but declined to discuss the question with him, and we parted on excellent terms. I am inclined to think that neither the admiral nor Commodore Alvin approved of the course pursued by Caxias, but they may have only been deceiving me. They both, however, deprecated any row with the American government. At 3.15 p. m. left Curupaity, and came down the river under one boiler, as I feared our coal would not hold out to Rosario in case we were delayed by grounding or otherwise. We reached Rosario on the 14th, and took in twenty-five tons of coal; left Rosario on the 15th, and reached Buenos Ayres on the 17th; left for Montevideo on the 18th, arriving here on the 19th. Many of the crew have been sick with fever and ague and billious fever, but none dangerously. We are all now in good condition.

"My reasons for taking the course above mentioned were the following:

"I had no orders from yourself in relation to the subject, and did not even know what your opinion on it might be. I concluded that if it was the wish of our government to insist upon the passage of the vessel as a right, no harm beyond letting Mr. Washburn remain for a short time longer where he is could be done; and if such is not its wish, the action advised by Mr. Washburn would have placed it in a false

position, and to get out of I, myself, would have been sacrificed, the benefits resulting from which I did not exactly see.

"M. de Caxias had resolved not to let the vessel pass, but wanted to gain time by repeating his former proposition, as even had he embarked Mr. Washburn in a Brazilian vessel, the land journey which that gentleman refused to make would still have remained, unless they should have passed the land batteries at Timba, in the Chaco, and at Humaita. The idea that Lopez would permit such unmolested passage of a Brazilian vessel was not entertained by the Brazilian commander-in-chief, for his naval aid, Captain De Cunha, (I think is his name,) called on me on the — instant, and told me that Lopez was very anxious to have this vessel pass up, and the admiral also told me that in a dispatch captured by them, from Captain Allen, commanding at Humaita, to Lopez, the former congratulating the latter on the moral force which the passage of an American man-of-war would give to their cause, and he, the admiral, also remarked that Lopez wished us to come up. The concurring evidence of these two officers only proved what was very apparent to me before, that Lopez would not let a Brazilian vessel pass the batteries unmolested for the purpose of defeating an object in which he was so much interested. I knew that Caxias was only temporizing with me; in fact, humbugging me. Mr. Washburn did not protest to Caxias against his action, nor did he, that I know of, demand that the vessel should pass up. His talk about firmness on my part, and the government sustaining me, and his assuming so far as he could the responsibility, was, in my opinion, simply atmospherical. Why, his *quasi* "not to go below Corrientes until so ordered" was decidedly presumptuous. My only reply to it was that "of course his suggestions as to what I was to do could not be attended to." Another reason was the condition of the ship's galley, condemned by survey while in Rio de Janeiro, which we have not yet been able to replace, and which is now in a condition dangerous to the safety of the vessel. I send a report of three officers who examined it on the 9th of June. We have also thirty men whose times are out, and whose detention might seriously embarrass the commander-in-chief were any vessel of the squadron to return to the United States during the absence of this vessel in a point so distant. I have endeavored to act so as to avoid complication, and hope I have succeeded.

"Very respectfully, your obedient servant,

"WILLIAM A. KIRKLAND,

"Lieutenant Commander, Commanding.

"Rear-Admiral CHARLES H. DAVIS,

"Commanding South Atlantic Squadron."

Q. By whose order and under what instructions did you undertake your third voyage?—A. My report to Admiral Davis, dated September 22, 1868, published on page 65 of Executive Document No. 79, gives a detailed history of that voyage.

Q. Did you take Admiral Davis on the Wasp to Angostura, to procure the release of Bliss and Masterman?—A. I did.

Q. Were you ordered by Admiral Davis to proceed to the camp of Lopez for the purpose of verifying a supposed confession of Bliss and Masterman?—A. I was ordered by Admiral Davis to go to the camp of Lopez for the purpose of hearing these declarations read.

Q. Did you go there?—A. I did.

Q. Who accompanied you?—A. Fleet-Captain Ramsay.

Q. What time of the day did you arrive?—A. Some time about the middle of the day.

Q. To whom were you presented on your arrival?—A. We were not presented to anybody. I asked to see Lopez.

Q. Did you see him?—A. I did; I saw Lopez and also Mrs. Lynch.

Q. What transpired during that interview?—A. We told him we had come to hear the declarations of those men. We found Lopez sitting in a hut. They had just been celebrating what they called a victory, and I think I congratulated him upon it.

Q. Did he say anything in regard to Bliss and Masterman?—A. Not a word, that I remember. If he did say anything it was merely that the judges would be ready in a short time. I do not remember that he said anything about it. I saw them as soon as we got over to the ranche occupied by the fiscales.

Q. State particularly what occurred on that occasion from beginning to end.—A. I will premise by stating that I thought the whole thing was ridiculous, and I did not pay any particular attention to it, except to some parts of it.

Q. Why did you regard it as ridiculous?—A. I knew that their declaration would not amount to anything in the United States. I thought it was a piece of ignorance on the part of the Paraguayan authorities.

Q. You had heard of the declarations before you started for Paraguay?—A. I do not remember about that.

Q. What was your impression before you went into this court of justice?—A. My impression was that it was a humbug.

Q. What was your impression as to the truth or falsity of the confessions?—A. I thought some of it might be true.

Q. Was the impression on your mind that it was a true confession, or that it was a false one?—A. I cannot say that there was any impression on my mind at all. I thought it was a humbug.

Q. What impression was there upon your mind as to whether it was a voluntary confession or an extorted one?—A. My impression was that it was not worth a cent.

Q. Because it was extorted?—A. Because it was something that would not amount to anything in the United States, and the men would say anything they liked.

Q. Did you believe before you heard those confessions, before you saw Bliss and Masterman, that the confessions were the result of torture?—A. I was always under the impression that a confession made by a person in confinement was a false one.

Q. Now relate what occurred at this tribunal; who were present on the part of the Paraguayan government?—A. There were two judges, or, at least, I supposed they were judges. One or both of them were priests. There were two men whom I think were Paraguayan officers, and one man was reading these declarations. One or two of these men came in from time to time. I think there were four or five Paraguayan officers there.

Q. Who was first brought in?—A. Mr. Bliss.

Q. Did you have any conversation with Bliss when he first came in?—A. I do not think I did.

Q. Did either you or Captain Ramsay make known your character?—A. I think one of the parties present said: "These officers are here to witness your declaration."

Q. Did he state who you were—that you were United States naval officers?—A. I do not remember.

Q. Were you in uniform?—A. I was in uniform and so was Captain Ramsay, without swords on.

Q. Did either you or Captain Ramsay inform Bliss and Masterman that your object was to effect their release?—A. I do not think I did, but they knew it.

Q. How did they know it?—A. Because Masterman asked us if they were to go with us then.

Q. When was that?—A. It was after they got through making their declarations.

Q. You held no communication whatever with Mr. Bliss?—A. I might have asked him his name.

Q. Did you know that he was an American citizen, attached to the American legation?—A. I recognized him as soon as he came in the room as having seen him on board the United States steamer Pulaski, when he was in the employ of General Webb.

Q. You knew, as a matter of current history, that he was attached to Washburn's legation?—A. Yes, sir.

Q. But you did not make known to him the object of your visit?—A. I do not think I did.

Q. Describe what was done after Bliss was brought in; what was his personal appearance?—A. He looked like a man who had been shut up a long time. He was pale.

Q. Could he walk?—A. I did not see anything out of the way in that respect. He is not naturally a very graceful man.

Q. Did you see anything about him that led you to believe that he had been placed in irons?—A. The legs of his breeches were considerably worn. I should think from that he had been in irons.

Q. What occurred after Bliss entered?—A. He came in and these declarations were read over to him by these men. I did not pay particular attention to them, as I thought the whole proceedings a humbug.

Q. Did you regard Messrs. Bliss and Masterman at that time as under the control of the Paraguayan authorities?—A. I did.

Q. You did not exercise any control over them?—A. No, sir; I was not sent there for that purpose.

Q. You were sent there to hear what you style a humbug proceeding being gone through with?—A. Yes, sir.

Q. About what time did they close this examination?—A. It was nearly dark.

Q. Did you seek any interview with Mr. Bliss after that?—A. No, sir.

Q. Did you make any communication to him of the arrival of the Wasp and the object of the admiral's visit?—A. I did not.

Q. Why did you not do so?—A. It did not occur to me to do it. I knew that the men were going to be delivered up.

Q. Did you have any promise that these men would be delivered up?—A. Yes, sir. I carried the admiral's letter to Lopez, and he told me then that these men would be delivered up.

Q. At what time did these men reach the boat?—A. It was after I had gone to bed, I remember. I was called up and told that these men had arrived.

Q. What orders did you then give?—A. I went out and saw a Paraguayan officer

standing at the gangway. I told the officer of the deck to let these men come on board. They did so, and I said: "Well, here you are," or something of that kind.

Q. Did you inform them of your position on your boat?—A. I do not know. I was addressed as captain by everybody.

Q. What orders did you give in regard to their reception?—A. I told the officer of the deck to send for the master-at-arms and have these men taken to the yeoman's storeroom and made comfortable. I asked them if they wanted anything to eat, and I think Bliss said he wanted coffee.

Q. What orders did you give in regard to their being placed in charge of the master-at-arms?—A. I told him to put a sentry over them, and not allow the men to interfere with them. They were put under my supervision, and as I could not watch them, I put another man to do it.

Q. Did you regard them as temporary visitors to the Wasp?—A. I did not call them anything at all. I did hear that they were guests; but they were not my guests.

Q. How long was that sentinel placed over them?—A. I think that sentinel remained there as long as they remained on board the Wasp.

Q. Did they desire to have an interview that night or the next morning with Admiral Davis or General McMahon?—A. I do not think any application was made to me either for an interview with General McMahon or Admiral Davis. I think it was, however, the subject of conversation in the cabin.

Q. Was there any interview granted?—A. I do not think there was.

Q. Do you know of General McMahon having any interview with them?—A. I do not think he had.

Q. You were on the vessel all the time?—A. Yes, sir.

Q. Could the general have obtained an interview without your consent after you had placed a sentinel over them?—A. Yes, sir.

Q. What was your object of putting the sentinel over them?—A. Not to allow the men to interfere with them.

Q. What do you mean by not allowing the men to interfere with them?—A. I did not want the men to worry them. I remarked to some of the officers that these men were going to get us in some squabble when they got to the United States, and the less we had to say to them the better.

Q. What reason had you to suppose they would get you into a squabble?—A. I thought that was the diplomatic character to get people into squabbles.

Q. Then your object in placing these sentinels over these men was to protect them?—A. I thought that the whole proceeding was a piece of humbug.

Q. Suppose the sentinel had allowed them to go ashore, would you not have punished him?—A. I would, undoubtedly.

Q. Then the sentinel would not have regarded it as a piece of humbug?—A. Perhaps not. The vessel, however, was under way. When these men came on board the admiral had turned in. I went to his state-room door and reported that Bliss and Masterman had come on board. He said: "All right, captain, take care of them;" which I did.

By Mr. WILKINSON:

Q. Suppose any other man than an officer had endeavored to have had a conversation with them, would the sentinel have allowed it?—A. I think he would. He was merely to watch them. I gave him no orders. It was merely a piece of naval red-tape. It was to keep my skirts clear in case they got away.

By Mr. ORTH:

Q. How long did they continue in your charge?—A. Until we reached Montevideo. They were then transferred to the Guerriere. While on board my ship they messed with the petty officers.

Q. Was there any objection made to them by the officers of the mess?—A. Not on board the Wasp. I told the officer of the deck to have the master-at-arms to take the men and make them comfortable. I had no object in treating them with incivility. There was no other place on board the ship to put them but the storeroom. It was cool and pleasant. Masterman said when he came on board that he had held the rank of lieutenant in her Majesty's service, and that Bliss was the son of a minister. I said: "What has that to do with it?" He replied: "You call us men." "Well," said I, "what are you—are you girls?"

Q. When you say you wanted to protect them from the men, do you mean to say that there was a hostile feeling on the part of the men?—A. No, sir; I merely said: "Take these men and put a sentinel over them, and allow nobody to interfere with them." I cannot state what my object was in saying that. They occupied a somewhat anomalous position.

Q. Did not Mr. Bliss occupy the position of a rescued American citizen, who had been falsely imprisoned?—A. I do not know anything about it, except that he was put aboard the ship.

Q. Did you not know that he was an American citizen, and that the object of your voyage was to secure his release.—A. Yes, sir; I was to secure him for the government, which I did. I knew that the admiral had said that he would hold these two men subject to the order of the government of the United States.

Q. Did he say that to Lopez?—A. I do not know that he said that to Lopez. That was my impression in receiving these two men.

Q. I thought you said the admiral said that?—A. No, sir. I had heard it said that that was the admiral's intention. I regarded these men as subject to the order of the government of the United States. I was merely an agent of the admiral, and they were placed in my hands for the time being.

Q. Had you received any information in regard to these men that impressed you unfavorably?—A. I thought that Bliss was an outrageous liar.

Q. What reason had you to think that?—A. I thought from hearing these declarations. He made some statements under oath in them, with reference to letters which he said Mr. Washburn had written to me, and which I had written to Mr. Washburn. These statements were utterly untrue, and I told one of the Paraguayan officers that that fellow was a liar.

By Mr. WILKINSON:

Q. Did this letter, which Mr. Bliss said had been sent you, and which statement you pronounced a lie, implicate you in the conspiracy in any way?—A. I do not know whether it did or not. He merely stated that Mr. Washburn had written me a letter of a certain date, which was utterly false. I think he said that the letter ordered me to go to Buenos Ayres. Mr. Washburn had written nothing of the kind. I had also seen this book of Bliss's against Mr. Washburn, which I threw away as disgusting.

Q. Was there anything in Bliss's declaration, which was read in your presence, that in any way connected you with the conspiracy?—A. I think there was something in this declaration saying that I was the medium of communication between the Paraguayan minister and Marshal Caxias.

Q. Did they not, at that time, make admissions of the criminal conspiracy of Mr. Washburn?—A. I think they did. When Bliss came in to make these declarations, I recognized him as the former private tutor of General Webb. He brought Bliss down from Rio Janeiro to Montevideo, in the sloop-of-war Jamestown, and took him up to Buenos Ayres. General Webb told me, in the presence of the first lieutenant, that this man Bliss was very smart, very intelligent, and very learned; but that he was most unprincipled, and that he was afraid his company would contaminate his children. Mr. Washburn also remarked, more than once, that Bliss was a walking encyclopædia of knowledge, but a most unprincipled man. I was not very much struck with Bliss's appearance, and from these things I had heard about him, I did not think very favorably about him.

By Mr. SWANN:

Q. Did you listen attentively to these declarations while they were being read?—A. Yes, sir.

Q. You understood what they contained?—A. I understood very nearly every word that was read.

Q. Did you say that you carried the original communication from Admiral Davis to Lopez?—A. Yes. Lopez told me, at that time, that these men would be delivered up; that there was no doubt about their being delivered up.

Q. Did you understand that Lopez would deliver these men up unconditionally?—A. Yes; I did.

Q. Did Admiral Davis understand, after he received the reply from Lopez's ministers, making conditions, that these conditions could not be granted by himself?—A. I think that he and General McMahon both read the letter over, and came to the conclusion that they could not accept any condition; that the men must be delivered up unconditionally. I was present during most of these consultations, and heard a great deal of talk about it.

Q. So that Admiral Davis did not treat these conditions as amounting to anything?—A. No, sir. He wrote back that he would not accept those conditions.

Q. Did he write any other letters than those that are published?—A. No, sir; not that I know of.

Q. How did these gentlemen conduct themselves while on board of your ship?—A. Very quietly. I never heard anything about them, one way or the other, except the day after they came on board. I ordered Surgeon Gale to examine them. I think he said that Bliss had a slight diarrhœa, probably caused by long confinement or change of food. I ordered him then to examine the persons of these men, to see whether they had been subject to torture, with a view of entering it in the log-book of the ship. The doctor reported that there were no signs of torture about them.

Q. Did the doctor make the examination?—A. He so reported to me.

Q. Was that a verbal report?—A. Yes, sir.

Q. You state that there was no communication between the admiral and these gentlemen, while they were on board. Did they have any interview with the admiral?—A. I do not recollect whether they did or not. Probably if they had asked an interview with the admiral, it would have been through me.

By Mr. WILKINSON:

Q. You stated, as I understood, that they asked an interview with General McMahon.—A. I believe they did. I have it so in my mind. Whether I got it from reading the memorial of Bliss and Masterman, or whether it was discussed on board the ship, I do not know; but I think such a request was made, and that the general did not see them; but what his answer was, or anything about it, I cannot state.

By Mr. SWANN:

Q. All the information, I understood you to say, you had in regard to Bliss, you obtained from General Webb and Mr. Washburn, and from the book which was circulated?—A. Yes, sir; and this declaration he made before me. I thought that that was rather cheeky, to make such a statement in my presence.

Q. You had no evidence outside of that?—A. I have been a long time in the waters of the La Plata, and I heard it frequently expressed that he was a spy of Lopez, in Washburn's house, and that he would betray Lopez as soon as he had an opportunity.

Q. Was that general rumor there?—A. I heard it on several occasions, from different parties. The general impression I had was, that he would not tell the truth to save his life; and when I saw that book which he published, it was so scandalous that I would not read it.

Q. Who published that book?—A. I cannot tell you. General McMahon borrowed it from the Italian minister at Buenos Ayres.

Q. When was it published?—A. I do not know.

Q. Was it not published during his captivity by Lopez?—A. I do not know.

Q. When did you first see the book?—A. General McMahon had it. He brought it up from Buenos Ayres, and I saw it lying in his room. I picked it up and glanced over it. When I saw the nature of it I threw it aside.

Q. How could he publish it when he was in imprisonment?—A. I do not know anything about that. I merely say that he published it, from the fact that his name was signed to it.

By Mr. SWANN:

Q. You state that you consider this whole proceeding of sending you and Captain Ramsey to hear these declarations read, and to certify to the fact, as a piece of humbug?—A. Yes, sir.

Q. Do you mean by that to reflect on Admiral Davis that he had sent you when there was no occasion for such proceeding?—A. O, no; I would have done exactly the same had I been in Admiral Davis's place. It was done to humor Lopez. The Paraguayans are excessively sharp about some things, and not so about others. They think they know a great deal, and they thought by having the signatures of two officers of the United States to these declarations they would be worth more in this country. I knew that it would not be worth anything, but they thought so. It was well enough to humor them; I looked upon it as a perfect mummery.

Q. Do you think that Admiral Davis was bound in good faith to receive these men on board and take them to the United States according to the terms that Lopez asked?—A. I do not think that he was. I think that the admiral was perfectly right in taking these men.

Q. The point I want to get at is this: Captain Ramsay stated in his testimony the day before yesterday in regard to allowing these prisoners to have any communication with the shore that it was bad faith with Lopez if the admiral had allowed any such intercourse; now I want to know if you think the admiral was bound in good faith to carry out such conditions?—A. By all means.

Q. Why?—A. He had brought these men right from the Paraguayan camp, and to take them out and turn them loose right in the enemy's camp, I should think a breach of good faith and an act which I as a military commander would not like to have practiced on me.

Q. Was it a breach of good faith or a breach of the condition of Lopez's stipulations?—A. It was merely a matter of good faith.

Q. Suppose one of the members of this committee were in Paraguay and sent a written order to the admiral, stating that he was confined there, unable to get away, and wanted the admiral to take him away, and he was taken away and was taken on board the ship, how would he be treated?—A. I cannot answer the question unless I know how you came on board.

Q. Suppose we had appeared on the bank of the river and had written a letter to the admiral that we had been detained by Lopez in that country and had been unable to get away; that we had escaped from his imprisonment, and that we were American

citizens and claimed the protection of the American flag, and the admiral had received us on board, would you have felt it your duty to keep us under guard?—A. No, sir; if you had escaped from the Paraguayan power, and came to the beach, so that I could have got you on board my vessel without the consent of the Paraguayan authorities, I would have allowed you to go on shore anywhere you pleased; but if you came on board by the consent of Lopez, it was then another thing; I would then have felt it in good faith not to have allowed you to communicate with his enemies.

Q. So, then, you treated Bliss and Masterman different from what you would have treated men who had come on board under other circumstances than they did?—A. Yes, sir; in regard to landing them. I regarded the fact of their having been put on board by the Paraguayan authorities as demanding in courtesy from us that they should not be allowed to communicate with their enemies.

By Mr. ORTH:

Q. Suppose that Lopez had surrendered these prisoners into the hands of the admiral unconditionally, would your treatment have been different from what it was?—A. Just the same, with exception, perhaps, of the orderly.

Q. That is to say, that you would have placed them in the same mess?—A. Certainly.

Q. Would you have placed them in charge of an orderly or sentinel?—Q. If I considered them as being subject to the orders of the United States, I most undoubtedly would have done so.

Q. You have already stated that you knew Bliss and Masterman had been members of the legation in Paraguay prior to their arrest?—A. I had heard so.

Q. Did that have any influence in regard to your treatment of them?—A. If they had been secretaries of Mr. Washburn's legation, or prominent members of it, they would have been allowed to mess in the wardroom, but they would have had the same place to sleep, as there was no other place in the ship. These men, however, occupied subordinate positions in the legation, and I put them in the petty officers' mess, among very respectable men, one of them an apothecary, too.

By Mr. WILKINSON:

Q. Suppose Mr. Washburn had been arrested at the same time that Bliss and Masterman were, and he had been delivered up with them under the same circumstances, would you have prevented his having intercourse with the people of Buenos Ayres?—A. Yes, sir; I would, most undoubtedly.

By Mr. WILLARD:

Q. Mr. Bliss, in his testimony, says that at this tribunal one of the Paraguayan officers sat before him with a sword in his hand held over him?—A. None of the officers present had drawn swords; that statement is utterly false.

By Mr. WILKINSON:

Q. You said that this treatment you extended to Bliss and Masterman was an act of courtesy to Lopez?—A. What treatment?

Q. The preventing them from communicating with the shore.—A. I do not say that it was a courtesy to Lopez, but simply common courtesy which I would extend to any nation.

Q. Do you think that any nation that takes citizens from under the American flag, as Lopez did, is entitled to any courtesy from the navy?—A. As far as my judgment of the matter goes, I think that these men should have staid in the legation of the United States at Asuncion.

Q. I ask you if you think there is any courtesy due from the navy of the United States to a government that shall violate the American flag by seizing an American citizen who is legally under the protection of that country, as Lopez did Bliss and Masterman?—A. They were not under the protection of that flag, so far as my judgment goes; I am not, however, a diplomat.

Q. Do you think an American citizen, under the protection of the American government in any foreign mission, the moment he leaves his house can be arrested?—A. If he commits any crime, the flag does not protect him outside of the legation.

Mr. Washburn desires me to read to you a paragraph from one of his letters:

"Before finally leaving Paraguay, it is my duty to make my solemn protest against the arrest of those two members of my legation, Porter Cornelius Bliss and George F. Masterman. Their arrest in the street, as they were going with me from the legation to pass on board the steamer, was as gross a violation of the law of nations as would have been their seizure by force in my house. It was an act, not only against my government, but against all civilized powers, and places Paraguay outside of the pale of the family of nations, and for this act you will be regarded as a common enemy, one denying allegiance to the law of nations."

Mr. Washburn desires me to ask whether you agree to the doctrine laid down in that paragraph?—A. I do not think that these two men were exempt from capture; as soon as they went out in the streets of Asuncion they were outside of the legation.

Q. Did you say anything about who was to be President, or who was to be Secretary of State here?—A. I think I did say that General Grant was likely to be President, and Mr. Washburn would stand high in the radical party. I said he would command a great deal of influence, and would be a troublesome man to deal with.

Q. Did you say that General Grant would probably be President, and that Mr. E. B. Washburn would have the place of Mr. Seward?—A. I may have said that.

Q. Did you say anything about monitors or iron-clads that were on the coast?—A. I think I did.

Q. Why?—A. It was just to let him know that in case he did not deal fairly with us he would have something to fear, and it was merely to scare him.

Q. Did you regard Mr. Washburn as in any danger?—A. No, sir; I never did. Mr. Washburn, I understood, used to go out riding on horseback from Asuncion every day, and it would have been a very easy thing for Lopez to have killed him any time he wanted; nobody would have known anything about it. Lopez needed not to go into his house and take him and put him in prison.

Q. Had you any evidence, derived from any person outside the power of Lopez, that there was at any time a conspiracy against his government?—A. It was a subject of general report down there. I presume there was, or he would not have executed several of his best men.

Q. In your letter (marked "private") to Admiral Davis you say this: "Mr. Washburn told me that he had never heard anything of a revolution or conspiracy against the government; but on one occasion Mrs. Washburn, when her husband was not present, stated there was a plan to turn Lopez out of power, and to put in his place his two brothers, Venancio and Benigno." Please state the circumstances under which you received this information.—A. It was on the passage down the river, two or three days after we left the batteries. Mrs. Washburn said distinctly that there was no conspiracy, but that there was a plan. It was at the dinner-table. Mr. Washburn had finished his dinner, and had gone out for something, and shortly after came back. This remark struck me as rather singular, and I wrote of it to the admiral. I know that she made a distinction between the words "conspiracy" and "plan."

Q. Was any person present?—A. Yes, sir; a Mr. Davie was present.

Q. Who was he?—A. He went up with me as an interpreter and translator, and assisted me in writing.

Q. Did Mrs. Washburn, at the time and in connection with the remarks that you have just stated, say that there was no conspiracy?—A. We were speaking of Lopez and the country and the people, and she said there was no conspiracy, but that there was a plan to turn Lopez out.

Q. Why did you not so state in your letter to Admiral Davis?—A. I believe it is so stated.

Q. Did you inform Mr. Washburn of what Mrs. Washburn had said?—A. I did not.

Q. Did you confer with him about it?—A. No, sir. I have with me here the affidavit of Mr. Davie, in reference to the circumstances, which I would like to offer.

Q. What is Mr. Davie's business?—A. He is a sheep farmer.

Q. What was your object in bringing this affidavit with you?—A. So as to be prepared in case my statement should be denied.

Q. You seemed to apprehend, before you left Montevideo, that it would be denied.—A. I did not know whether it would or not. I wished to be provided with evidence of the correctness of my report in case it should be doubted by Mr. Washburn.

Q. Did you bring affidavits in regard to other statements in the report?—A. No, sir; I did not. I have brought affidavits of other parties to other statements, not made, however, in connection with Mr. Washburn, but which are connected with the Paraguayan business. It is in regard to a statement made by General Webb in a letter to Mr. Washburn, which was published in a letter to the New York Tribune on May the 5th, in which I am accused of being the son-in-law of Lopez's political and financial agent. I have the affidavit of my father-in-law that he was in nowise connected with him.

"CONSULATE OF THE UNITED STATES OF AMERICA,

"Montevideo, July 9, 1869.

"On the day of the date hereof, before me, the undersigned, consul of the United States of America for Montevideo and its dependencies, personally appeared Charles J. F. Davie, who being by me duly sworn, deposes and says: That being on board the United States ship Wasp on her voyage to Paraguay, with approbation of the commanding officer of the United States squadron on the station, was present in the captain's cabin when the Hon. Charles A. Washburn, ex-United States minister to Paraguay, then on his return from Asuncion, stated his strong wish and determination to communicate to Marshal Caxias, the Brazilian commander-in-chief of the allied forces in operation against Paraguay, all the information he was possessed of, and which he might have obtained in his official capacity, regarding the number of Marshal Lopez's forces, their position and strength, and plan of operations, requesting Captain Kirk-

land to stop on his voyage at Humaita to allow the said Mr. Washburn to impart this intelligence to Marshal Caxias, by going on shore to his military camp for that purpose, and upon which Captain Kirkland refused to stop the vessel for any such purpose, and stated that, in event of his being required to do so, he should be under the necessity of communicating the case and reporting Mr. Washburn to his government. Was also present at table, on another and subsequent occasion, when, Mr. Washburn having left the table, Mrs. Washburn alluded to the revolutionary plan against President Lopez, which she and Mr. Washburn had been cognizant of, to upset Lopez's government, and to put one of his brothers, Benigno and Venancio Lopez, in his place.

"CHARLES J. F. DAVIE.

"Sworn and subscribed to, this ninth day of July, A. D. 1869, before me.

[SEAL.]

"J. DONALDSON LONG,

"United States Consul."

Testimony of Mrs. Washburn.

NEW YORK, October 29, 1869.

Mrs. CHARLES A. WASHBURN sworn and examined.

By Mr. ORTH:

Question. Are you acquainted with Captain Kirkland, of the navy?—Answer. Yes, sir.

Q. Where did you make his acquaintance?—A. First at Rio Janeiro.

Q. Where did you meet him afterward?—A. I do not remember whether I saw him at Buenos Ayres before we went to Paraguay.

Q. Did you meet him in Paraguay?—A. I met him on my return.

Q. What time was that?—A. In September, 1868, I think.

Q. You and your husband were guests on board the Wasp?—A. Yes.

Q. Captain Kirkland was a witness before this committee, and this passage occurs in his testimony: "Question. In your letter (marked 'private') to Admiral Davis you say this: 'Mr. Washburn told me that he had never heard anything of a revolution or conspiracy against the government; but on one occasion Mrs. Washburn, when her husband was not present, said that there was a plan to turn Lopez out of power, and to put in his place his two brothers, Venancio and Benigno.' Please state the circumstances under which you received this information?—Answer. It was on the passage down the river, two or three days after we left the batteries. Mrs. Washburn said distinctly that there was no conspiracy, but that there was a plan. I said nothing to her about it after this remark. We were at dinner, and Mr. Washburn had finished his dinner and had gone out for something, but shortly afterward came back. The remark of Mrs. Washburn struck me as rather singular, and I wrote of it to the admiral." Please state your recollection of that conversation.—A. I do not remember ever to have had any conversation with him about it, more than that we were all conversing about the conspiracy. I could not have said that there was a plan or conspiracy, because I did not then believe it; but I may have said that at one time we may have supposed there was, because of the arrest of people, &c. I did not then believe that there was a conspiracy, and, of course, could not have said there was one. I do not remember definitely what occurred on the voyage, as I was very nervous and suffered a great deal.

Q. Do you recollect conversing about this matter at any other time?—A. We conversed on this subject all the way down. It was the thing uppermost in our minds.

Q. You do not remember having said at any time that there was a conspiracy or plan?—A. No, sir.

Q. Had you then reason to believe that you would not have been permitted to leave Paraguay had you remained much longer?—A. I did so believe. I think if we had remained one week longer Mr. Washburn would have been in Lopez's hands, and I would have been sent barefoot over the mountains.

Q. Were you acquainted with Bliss and Masterman?—A. Yes, sir.

Q. Were they in your house at the time you left and for some time previously?—A. Yes, sir. Mr. Masterman was our private physician, and Mr. Bliss was interpreter to the legation.

Q. What do you know of Bliss and Masterman approving the course pursued by Mr. Washburn in leaving Paraguay?—A. I think they approved of his course entirely, because we all supposed that Bliss and Masterman would be taken any way, as they had no passports.

Q. Were passports refused them?—A. Yes, sir. The course pursued by Mr. Washburn was fully understood by them.

Q. Are you acquainted with Admiral Davis?—A. I met him twice.

Q. Where did you first meet him?—A. In Buenos Ayres.

Q. On your return from Asuncion?—A. Yes, sir.

Q. What was Admiral Davis doing there at that time?—A. He came up with General McMahon. I do not know what for, but I presume to see the minister resident there.

Q. What was the name of his vessel?—A. The flag-ship *Guerriere*.

Q. Were you and Mr. Washburn invited by Admiral Davis at any time to go on board the *Guerriere*?—A. No, sir; never.

Q. Did the admiral know of your being there?—A. Yes, sir; because he met Mr. Washburn on shore.

Q. Was it a matter of surprise to you that, under the circumstances, Admiral Davis did not invite you and your husband on board his vessel?—A. It was. I thought he treated us with great discourtesy. We spoke of it when we reached Rio Janeiro to General Webb and Mrs. Webb. We thought that under the circumstances we were entitled to that consideration.

Testimony of Hon. Martin T. McMahon.

WASHINGTON, D. C., November 4, 1869.

Hon. MARTIN T. MCMAHON sworn and examined.

By Mr. ORTH:

Question. What position under the government have you recently filled?—Answer. The position of minister resident of the United States near the government of Paraguay.

Q. When did you receive your appointment, and when did you leave for your post?—A. I received my appointment, I think, about the end of June or the first part of July, 1868. I started for Paraguay on the 24th of September of the same year.

Q. At what time did you reach Rio?—A. I cannot give the exact date without referring to memoranda—in about twenty-six or twenty-eight days' time after leaving here.

Q. What mode of conveyance had you from Rio to Paraguay?—A. I went from Rio to Montevideo on the flag-ship *Guerriere*; from Montevideo to Buenos Ayres in a private packet ship; and from Buenos Ayres I went to Paraguay on the United States steamer *Wasp*, which was then the flag-ship of the South Atlantic squadron, having Admiral Davis on board.

Q. Who was in command of the *Guerriere*?—A. Captain Woolsey was in command of the *Guerriere*, and Admiral Davis in command of the squadron.

Q. Were you invited by Admiral Davis to take passage on his vessel?—A. Yes, sir.

Q. You had made no request of him prior to being invited by him?—A. No; because I was accompanied by my family, and I was under the impression that I would have to go on a packet and meet the Admiral at Montevideo. I accepted his invitation conditionally—that if I could, I would make arrangements to send my family to Montevideo by private packet.

Q. Did your family accompany you to Montevideo?—A. Yes, sir. Afterward the admiral made arrangements for them on the flag-ship *Guerriere*; but as the accommodations on the *Wasp* were insufficient for so large a party, I took my sisters from Montevideo to Buenos Ayres on a packet-ship, and rejoined the admiral at the latter place on the *Wasp*, my sisters remaining in Buenos Ayres. My family consisted of my three sisters. I have no wife.

Q. At what point in Paraguay did you land?—A. At Angostura.

Q. Had you any difficulty in passing through the lines of the allies?—A. None whatever. Permission had been obtained for me to pass, by Mr. Worthington, at Buenos Ayres, prior to my arrival there.

Q. At what time did you reach Angostura?—A. It was in the beginning of December, 1868.

Q. Did you and Admiral Davis have any consultations during your passage from Rio to Angostura, as to the manner in which you should proceed, upon your arrival there?—A. Yes, sir; frequent consultations.

Q. State what they were, and what conclusions you arrived at?—A. Upon my first interview with Admiral Davis, I found we both, after profound reflection, had come to the same conclusion as to the necessity of my going to Paraguay accompanied by a naval force. The admiral informed me that only four vessels of the squadron could ascend the river, but that if I thought it advisable, he would transfer his flag to one of the smaller vessels, and proceed with me. I told him I thought it advisable to make as imposing a display as possible, and that I would regard his presence as important. I cannot give our subsequent conversations in detail; but I was living with

him, at his table, and we talked these matters over frequently. I explained to the admiral that I thought if this Bliss and Masterman matter could be arranged satisfactorily in such a way that, while maintaining the honor of the government, the necessity of sending an expedition to Paraguay could be obviated, and a war, in which there was certainly no credit to be gained, averted, it would be a very desirable thing to do, and that, for my part, I was most anxious, on that account, to proceed in the matter without waiting instructions from the government; so that if we could possibly arrange it as we hoped, even though I might act contrary to the subsequent advices of the government, I was willing their censure should fall on me, because, at the same time, the question would be settled. The admiral agreed with me in this view, and thought it desirable to take this action. At that time there was great excitement in every part of South America on this subject, and a very natural feeling and desire on the part of the allies that complications should arise between the United States and Paraguay, and produce a rupture. I felt pretty certain there would be some feeling of excitement in the United States upon the receipt of the news of the seizure of these two men; but I felt confident that they would be delivered to us upon our demand, and I was afraid that perhaps the instructions of the government, being based upon insufficient information, might order some more violent proceeding, in such a way that a peaceable settlement would be out of the question. I was anxious, therefore, to proceed without waiting for further instructions. In this the admiral thought I was acting wisely; and we then discussed the mode in which we should proceed upon our arrival at Angostura. We both were of conviction, derived from reading the correspondence interchanged between Mr. Washburn and the Paraguayan government, as well as from other very evident reasons, that Lopez could have no desire for a rupture with the United States, and therefore he would deliver these men when demanded. We also discussed the propriety of my making the demand for their release, as I had already informed the admiral that it was not my intention to resume diplomatic relations on the part of my government with Paraguay, until Bliss and Masterman had been delivered on board the flag-ship. Then the question arose how the demand was to be made, and we agreed it was more proper for the admiral to make it. It was accordingly made by the admiral in his own name. In adopting this view of the case, that the admiral should make the demand, I acted in accordance with the advice of Mr. Webb, our minister at Brazil, who also strenuously advised me, first, not to go beyond Rio or Buenos Ayres; that the country would be disgraced if I did; also, that we were in a state of war with Paraguay, and that, as I had no authority to make peace, I had no right to go to Paraguay; that my instructions from my government were abrogated by the then existing state of war—in which opinions, however, I did not concur. He told me, however, (and in this I adopted his advice, as I have stated,) that I could hold no communication direct with Lopez until I had delivered my credentials. I found out afterwards, however, when my instructions arrived, that this was the only point connected with my proceedings wherein the steps actually taken differed from those I was instructed to take, as the department instructed me to conduct the correspondence myself.

Q. What instructions did you receive from the State Department when you left here?—A. My instructions were to proceed to Paraguay, stopping long enough at Rio to communicate with Mr. Webb, our minister there, and at Buenos Ayres to communicate with our minister at that place, and at Montevideo, with the United States consul, to ascertain from these gentlemen if the apprehended military obstacles to my passage up the river were removed, upon the part of those allied governments, and then to proceed to Paraguay. I received, also, another letter of instructions, with regard to the political conduct of my mission, stating that it was the desire of the government of the United States to cultivate the most friendly relations with Paraguay; that while the government, in the exercise of its recognized policy of non-intervention, was not disposed to question the right of any nation, with whom it had treaty connections, to carry on war as it thought best, it, nevertheless, deplored the war on the La Plata, and that it took a special interest in the well-being of the South American states, and would be gratified to see the termination of the war, &c.—general instructions to that effect.

Q. When and where were you first advised of the arrest of Messrs. Bliss and Masterman?—A. It is hard to say. When I arrived at Para, I heard that there had been very strange doings in Paraguay; that Mr. Washburn had been shot; that the French consul and a great number of others had also been shot. At Pernambuco, I think, the news was contradicted, with regard to Mr. Washburn, but there were reports of a similar character in regard to other foreigners. But I think it was at Rio that I received the first reliable intelligence.

Q. Had you any instructions from the State Department to call upon Mr. Webb at Rio?—A. Only for the purpose to which I have alluded; to ascertain from him if the apprehended military obstacles to my passage up the river, on the part of the Brazilian government, were removed; upon no other subject whatever. Mr. Webb has stated in his published correspondence, that I was directed to consult with him for the pur-

pose of receiving instructions. That statement is not consistent with the facts. I was directed to communicate with him on the point I have mentioned only. My instructions were simply a review of what had previously occurred respecting the difficulties in regard to the passage of the Wasp up the river to bring Mr. Washburn away, and then a direction to proceed, and as to the mode in which I should proceed—if possible, by private conveyance. (These instructions are contained in the letters published in Senate Executive Document 5, fortieth Congress, third session, pages 101 and 102.)

Q. Your letter of instructions says: "You will, however, stop at Rio long enough to communicate with Mr. Webb, and also at Montevideo and Buenos Ayres, to communicate with the consulate and legation at those places, and to ascertain whether the military obstacles to your voyage up the river, which were heretofore apprehended, have been removed." You construed that part of your instructions to apply simply to the military instructions—nothing else?—A. Yes, sir; to nothing else. I am directed, afterward, to show this letter to Mr. Webb and to Mr. Worthington and to Admiral Davis, and to say that the diplomatic question is not discussed therein.

Q. You did not, then, understand that you were to consult with Mr. Webb about any matters that had come to his knowledge, with regard to Paraguay, that had not come to the knowledge of the State Department here?—A. No, sir.

Q. Whatever Mr. Webb suggested to you, then, you regarded simply as the suggestion of a private individual?—A. Yes, sir; as coming from a gentleman of high diplomatic position, but not such as to govern my conduct necessarily. And in making that statement, I am fully sustained by the department, for I was also instructed to communicate with the consulate and legation at Montevideo and Buenos Ayres, in the same sentence in which I am instructed to communicate with Mr. Webb; and it is not to be supposed that their suggestions should be regarded by me as my rule of conduct.

Q. I understand that, prior to your arrival at Angostura, you and Admiral Davis had fully agreed as to the course which both, or either of you, should take.—A. Yes, sir; fully.

Q. And that was, that you should not present your credentials until after the release of Messrs. Bliss and Masterman.—A. Yes, sir.

Q. And that you should have nothing to do in the matter of their release?—A. Yes, sir; except that I was present with the admiral co-operating in that demand.

Q. Your presence was made known to Lopez?—A. Yes, sir; and I remember, in talking this matter over, and believing in Lopez's desire to maintain friendly relations with the government of the United States, we thought the fact that a new minister had been appointed to represent that government would have weight with him in his decision. But Lopez expressly states in his letter that at no time did he mean not to deliver these men up unreservedly.

Q. You have already stated that you felt confident that these men would be delivered up on demand. Give to the committee the grounds of your confidence.—A. It was simply this: that Lopez could not afford, at that present moment, to involve himself in a quarrel with the United States; that he must necessarily know that these men would be demanded by the United States, and he must have made up his mind to deliver them when demanded. That was the chief ground on which I based my belief. Moreover, from the fact that in his correspondence with Mr. Washburn he had on so many repeated occasions expressed great anxiety to preserve friendly relations with the government of the United States, and that in all his intercourse with Mr. Washburn he had treated him in his capacity as minister with the utmost respect, even to sending him away in a Paraguayan man-of-war down the river, sending his baggage and equipage on board by Paraguayan servants, furnishing him with carts to carry it in, and preserving throughout all the correspondence the utmost respect for him officially, except in one unimportant instance, the only case where discourtesy was exhibited toward Mr. Washburn—where the minister of foreign affairs implied a direct contradiction of Mr. Washburn's words. These things, of course, confirmed me in my belief of his desire to maintain friendly relations with my government.

By Mr. WILKINSON:

Q. If you reasoned from these things, how did you account for Lopez arresting Bliss?—A. That involves the gist of the whole correspondence. Mr. Washburn claimed that Bliss and Masterman were members of his legation; Lopez denied that they were. The correspondence proceeded on that basis all the way through. There was much argument on both sides whether they were or not. The Paraguayan government claimed that the alleged connection of these men with the legation was not one of good faith, but intended merely to shield them from arrest; nevertheless, while Bliss and Masterman remained in the legation under the protection of the flag, there was never any disposition to touch them, as is shown, I think, fully in the correspondence.

Q. Were they not under the flag when they started out in the streets with Mr. Washburn?—A. I think not. Mr. Washburn had accepted the condition that Bliss should confine himself to the legation to avoid arrest, thereby placing him on a footing wholly inconsistent with the character of an attaché. He had been notified that Bliss was not

recognized as one of the servants of the legation, and, therefore, if found outside of the legation he would be arrested. My impression of the fact is, that Bliss and Masterman were left by Mr. Washburn to follow him, and that they were arrested in the street while following him. It is very certain, as you will see by his letter, that when Mr. Washburn received his passports from the Paraguayan government for himself and the members of his family and his private secretary and servants, with the statement that passports would not be furnished for Bliss and Masterman, Mr. Washburn accepted passports for himself and the others, replied, thanking the government for them, and informed them that he would be ready to start to-morrow. I consider that as being a consent that Bliss or Masterman should remain, or as waiving the question of their accompanying him away. When they were seized, moreover, in the street, Mr. Washburn made neither protest nor objection, but continued on his way to the steamer.

By Mr. SWANN:

Q. Do you know how long an interval intervened before Bliss and Masterman followed Washburn?—A. I do not; but I derived the impression from reading in some newspaper a statement of Bliss or Masterman, saying that they waited until the minister was out of sight. I am not positive about that, as I paid but little attention to it at the time. I have also an impression, from reading Mr. Washburn's testimony, that they followed him "a little distance behind," I believe. I have also an impression that the Italian and French consuls walked on each side of Mr. Washburn going down the street.

By Mr. WILKINSON:

Q. But how did you account for Lopez arresting Bliss and Masterman, if, as you thought, he was desirous of preserving friendly relations with the government of the United States?—A. I thought that his action rested on what he believed the rights of his government demanded; and therefore he detained these men.

Q. What change had taken place then, that induced him to give them up?—A. That is not for me to explain; but I presume he would attach more weight to a request made by the government of the United States directly, than to the point upon which he and Mr. Washburn disagreed about the law. If he found the government of the United States sustained Mr. Washburn's position, he would undoubtedly give up the men. He disputed with Mr. Washburn about their position, and, of course, naturally enough desired to maintain his point as against Mr. Washburn. He maintains in his correspondence that Mr. Washburn has acted contrary to the principles of international law, and that Mr. Washburn's government will not support him. When, therefore, this demand is made by a new minister, and made in that form wherein discussion is waived as to the character and capacity of the men—a simple demand made for their release—he feels that he must deliver them up; and the manner in which he delivered them up, is simply confiding the whole question to the ultimate decision of the American government.

By Mr. ORTH:

Q. You have stated that you felt they would be delivered on demand, and have given your reasons for thus thinking. Did you know at that time for what reason they had been arrested?—A. Only from reading the correspondence between Mr. Washburn and the Paraguayan government.

Q. You were in possession of that correspondence prior to your arrival at Asuncion?—A. Yes, sir: at Rio.

Q. You were then aware that they were arrested as criminals, by Lopez?—A. Yes, sir.

Q. Why, then, did you suppose that Lopez, regarding them as criminals, would deliver them up?—A. I took this ground: Mr. Washburn claimed that these men were seized in violation of the rights of his legation. It was not proper for me to go behind his declaration, and I felt that it was my duty to demand their delivery, on the strength of Mr. Washburn's declaration. I believed, also, that Lopez would not be willing to involve himself in the serious consequences which might follow from a refusal to yield to a demand made as this one was, although he might at first have believed that the government of the United States would disapprove of Mr. Washburn's course.

Q. You supposed, then, that Lopez, holding these persons as criminals, violators of his law, engaged in a conspiracy for his overthrow, and believing that they were guilty, would, nevertheless, deliver them on the demand of the American minister, on the ground that they were members of the legation?—A. Yes, sir; because they were only subject to trial in the United States, as members of the legation.

Q. Upon your arrival at Angostura, the correspondence relating to their release was conducted entirely by Admiral Davis?—A. Yes, sir.

Q. When did you first see Messrs. Bliss and Masterman?—A. I never saw them, except I saw Masterman once, from the bridge of the steamer.

Q. You were on board the Wasp when they arrived as prisoners?—A. Yes, sir.

Q. And were aware of their presence on board, prior to your presenting your credentials?—A. Yes, sir.

Q. Did you express any desire to see them?—A. No, sir.

Q. Did they express any desire to see you?—A. Not that I am aware of; because I remember saying, that in case they wanted to see me, to send them up. I had no desire to see them, partly because I had very little respect for Mr. Bliss's character. I had received, in Buenos Ayres, a copy of a most scurrilous book, written by Mr. Bliss, against Mr. Washburn, abusing and slandering him in the most shameless terms. I had learned in Buenos Ayres, moreover, from very many people there, (American citizens, chiefly,) that Bliss was not a reliable person; and, in fact, that no reliance could be placed in any statement of his. I had also questioned Mr. Washburn as to Bliss's character, and he confined his information to the fact that Mr. Bliss was an extraordinary encyclopædia of knowledge, but would not, in any manner, vouch for his reliability. I therefore felt that whatever statements Mr. Bliss might make I could not rely upon, and that the question was then placed in such an attitude that the whole matter was referred to the United States government for its decision at home. I was not then acting as minister to Paraguay, not having presented my credentials; and these men were delivered on board the Wasp with the understanding that they were to be sent to the United States, together with all the papers connected with their case, which were forwarded through Admiral Davis, addressed to the Secretary of State. Consequently, I felt that nothing I could do or say in the matter would be of any service to them or the government; that the whole question in its entirety was to be presented to the authorities in Washington, and whatever course the government might take I was ready to pursue, when I received instructions on that point. I have seen a statement published by one of these gentlemen, that I said that when I wanted to see them I would send for them. I never sent such a message to them, and I do not believe any such answer was returned to them. I am certain I never made it. I only remember the impression which I then had, which was, that if these gentlemen wanted to see me I would be glad to see them. But I felt I did not care to give them any more importance than they had already attained, by sending for them, inasmuch as they could not communicate to me anything upon which I could take action without further instructions from my government. I preferred that the question should go to Washington in its entirety, with the parties themselves.

By Mr. WILKINSON:

Q. But would you not think, ordinarily, that the American minister ought to have communication with American citizens who had been wronged?—A. Under ordinary circumstances I should think so. If his having communication with them could be the basis of any official action on his part, he should communicate with them. But, after thinking the matter over with much care, I could not see how any communication Bliss might make to me, taken in the face of his declarations, and the other papers which were to be sent to Washington, could be in any manner the basis of my official action.

By Mr. SWANN:

Q. Had you any knowledge of Mr. Masterman?—A. I did not know him at all at that time. I knew that he was not an American citizen. The only unfavorable thing against Masterman that I ever heard, was a statement made by Mr. Washburn to me, in which he used the expression—referring to Masterman—"the notorious liar," or some expression of similar import. I think that was in reference to Masterman's recently published book, which I have not read.

Q. Your unfavorable impression of Bliss, then, was derived from reading his book against Washburn?—A. Yes, sir; and from the testimony of almost every American resident in Buenos Ayres.

Q. Did you speak to many Americans there about him?—A. I spoke to nearly all the American merchants there—I suppose to five or six in number—and their opinion was universal against him.

By Mr. WILKINSON:

Q. Did the officers of the navy speak to you unfavorably about Bliss?—A. They may have done so; but I do not remember specially any conversation about him. They had no greater means of information concerning him than I had. There is no impression on my mind that they spoke against him specially.

By Mr. ORTH:

Q. You have alluded to the book written by Mr. Bliss against Mr. Washburn. Did you not know, at the time you saw that book, or prior to that time, the circumstances under which it was written?—A. I knew it was written while Mr. Bliss was in Paraguay; but I do not think the circumstances under which it has since been stated it was written, will justify the humor and malignity of slander that it displays against Mr. Washburn.

Q. Did you not know that Mr. Washburn had given Mr. Bliss full permission to use any and every means he could to preserve his life?—A. I did not.

Q. Did Mr. Washburn say anything to you upon that subject?—A. I do not remember that he did.

Q. Did you see a communication, published in the newspapers of Buenos Ayres or Montevideo, by Mr. Washburn, to that effect?—A. I may have; I do not recollect it now.

By Mr. WILKINSON:

Q. You knew Mr. Bliss was under duress when he wrote it?—A. Yes, sir. I made ample allowance for that while reading the book; but it was so voluminous in the first place, stated so many unnecessary things against Mr. Washburn, as to his previous history, many of which I knew to be false, and all done with so much humor—indeed, a very funny book—that it precluded, in my mind, the idea that it was written under duress, and it coincided, particularly with the information that I had of Bliss, that he was perfectly reckless as to what he said or did, or whom he slandered. That was my impression about Mr. Bliss from information gained in Buenos Ayres.

By Mr. ORTH:

Q. How long did you remain on board the Wasp, after the arrival of Bliss and Masterman?—A. I think I left the following day.

Q. Were they held as prisoners on the Wasp when you left?—A. I think they were held under surveillance, but not under guard as prisoners. I remember seeing Masterman walking around on the main deck of the Wasp on the morning that I left. I saw him from the bridge of the vessel. I will state further, that while leaving the Wasp, the only impression I had about them was one of surprise that neither of them had called upon me or asked to see me.

Q. Upon leaving the Wasp at Angostura, you went to the headquarters of Lopez?—A. Yes, sir.

Q. Was that his capital?—A. No; it was simply his headquarters. The capital was then being transferred from Luque to Piribebuy, in the rear of what they call the low Cordilleras.

Q. Where did you present your credentials?—A. At the headquarters, in consequence of the state of the country and the transfer of the capital.

Q. Where did you reside during your stay in Paraguay?—A. Chiefly in Piribebuy.

Q. How long were you there?—A. From the middle of December, 1868, until the end of June, 1869.

Q. How much of that time did you spend at Lopez's headquarters?—A. It would be difficult to say accurately. When I first went there, I remained from the date of my arrival, about the 12th, until the 23d of December. I then went to Piribebuy, and from the time I reached there until I received my recall, I think, I visited President Lopez four or five times. I visited him with regard to sending my dispatches by flag of truce, and I visited him once after his defeat at Pikysry, to urge upon him the necessity of making peace by sacrificing himself to his country.

Q. During that time, how often and for what length of time was Lopez at his capital?—A. He was always with his army. Referring to the preceding question, I desire to say I received my recall in May, and I left Piribebuy a few days after, abandoning my house and having packed up to leave the country. Upon arriving at headquarters, I found Lopez breaking camp, with all his army in the expectation of a battle the following day. The allied army was then advancing on his position at Ascurra, and he was then retiring to his defenses in the mountains. Everything was in confusion, and I thought it was not proper for me to attempt to go through their lines at that time, when a battle was imminent, and that if this battle was to be decisive, the presence of the United States minister might be of vast importance whatever the result was. For that reason I stated to Lopez that I would withhold delivering my letter of recall—which he was aware I had received—for a few days, until these movements were determined. I then remained, I think, about four weeks longer, and that time I necessarily spent at his headquarters, because that was the nearest point of departure from their lines, and I had given up my house at Piribebuy. That was the longest time that I remained for any one period at his headquarters.

Q. Then you were at Piribebuy from December to May?—A. Yes, sir.

Q. What officials of the Lopez government were residing there during that time?—A. There was the vice-president, the minister of the government, and the minister of the hacienda, and other lesser officials.

Q. How many ministers has he in his government?—A. I think he has five or six; he has the minister of government, who answers to our secretary of state, the minister of foreign affairs, the minister of war and marine, the minister hacienda, and, I think, the secretary of the treasury.

Q. Where were the other ministers who were not residing at Piribebuy?—A. The minister of war and marine was the acting minister of foreign affairs while I was there,

and he was at the camp with Lopez, generally; and I think the minister of the hacienda or the minister of the government was also the acting secretary of the treasury.

Q. Where was their official residence at that time?—A. At Piribebuy; but the minister of war and marine was at the camp, and he was the acting minister of foreign affairs.

Q. This was a temporary capital?—A. Yes, sir.

Q. What foreign officials were at that capital during your residence there?—A. When I first arrived there the French consul, Mr. Cuberville, was there. He left a few days after and went to Asuncion, the former capital. He left three or four days after my seeing him at Piribebuy. The other ministers accredited to Paraguay—the French, English, Italian, Spanish, and Prussian ministers, as well as the South American ministers, are all accredited to the Argentine Republic, as well as to Paraguay, or some of them to Rio and Paraguay, others to Uruguay and Paraguay; and they all fixed their official residence at Buenos Ayres or Rio de Janeiro.

Q. Were there any diplomatic representatives from any government at Lopez's capital during the time you were there, but yourself?—A. No, sir; none living there. These gentlemen were living below, and I learned from some of them afterward they had tried to hold intercourse with him on various occasions, but were generally prevented by the allied governments.

Q. What opportunity did you have of going about and seeing the country?—A. I had a horse and used to ride out frequently in different directions; sometimes used to ride five or six hours at a time.

Q. What is the distance from this new capital to Asuncion?—A. I should say it was very near seventy or eighty miles.

Q. Were you ever at Asuncion?—A. Not until I returned from Piribebuy.

Q. What was the general appearance of the country, so far as its agriculture was concerned?—A. When I left, the country was in a very promising state as regards agriculture, for during the previous six months they had planted very extensively. On my first arrival the population had all been transferred from that portion of the country which was given up to the allies, to the interior, and then there was great distress among the people—great scarcity of food. But an order was issued for planting in all directions, and in a very little while the whole country seemed to be producing, and at the time I left there was a very promising harvest of maize, mandioca, and vegetables of various kinds such as they could get.

By Mr. WILKINSON:

Q. It was, then, an old country, that had been cultivated before?—A. Yes, sir; a very old country.

By Mr. ORTH:

Q. Was there any scarcity of labor?—A. The women did all the labor in the fields and there was no scarcity of them. In that country there is a great surplus of female population.

Q. How much of an army has Lopez?—A. No one knows but himself; I do not think there is a man in Paraguay who knows but himself.

Q. You saw his army while you were in his camp?—A. Yes, sir; but it is very difficult to form an estimate from seeing an army in camp, because they are posted in various and often concealed positions; besides, I never thought it proper for me to make excursions through the lines.

Q. What impression did you receive as to the general feeling of the people toward Lopez?—A. It varies. There certainly exists among the people—and I think among quite a majority of them—a most devoted attachment to Lopez. It is a devotion that surpasses anything I have ever witnessed before. My impression is, this feeling exists among the great majority of the people. There are many others who perhaps do not feel that, but who fall into the current and feign that feeling. There are others, and there are many I suppose, who have very opposite feelings.

Q. In going through the country did you see any evidence of manufactures, or do you know of any manufacturing interests in the country?—A. I know of none except the arsenal, and the mines where they produce sulphur, and such manufactures as are incident to war. Everything in the country was centered in the war at that time, even the agricultural interests.

Q. Did they have any commerce or trade with the outside world during that time?—A. No, sir; they were closely blockaded.

Q. Did Lopez have a congress or a legislative assembly in session or in existence during the time you were there?—A. No, sir; I believe under the form of law there the congress is only to meet once in ten years and is generally but an advisory body of the president, whose advice he can accept or reject as he pleases. This did not occur while I was there. Lopez was elected president for ten years. The form of government there is an elective president who has absolute power.

Q. How did he exercise that power over his own people—I do not mean those in the army?—A. I can only give my impression, that I thought he exercised it in a very just,

and sometimes a very benevolent way. With regard to those who were accused of the conspiracy which is alleged to have existed, he used great severity in crushing them.

Q. What evidence have you as to the sufferings of those who were the victims of that conspiracy; what was their punishment?—A. I have none at all, except hearsay. I do not know.

Q. What was that hearsay—from reliable sources?—A. Yes, sir; I think it was; much of it comes from English residents in Paraguay; little from the Paraguayans, for they never discuss the affairs of the government and seem to think that the government will, in all emergencies, take care of them, tell them what to do, and it is not their affair to discuss it. But in talking with those who were my chief companions, those whom I used to consult most frequently about affairs in Paraguay, I derived the impression that these accused men, or many of them, had been shot.

Q. Were any of Lopez's relatives implicated?—A. There were several.

Q. What ones?—A. There were his two brothers, his brother-in-law, and I think their wives, his sisters.

Q. Were any of them punished?—A. One of his brothers I understood was shot.

Q. Was any punishment inflicted on his sisters?—A. I never heard of it until I left Paraguay, and I do not believe it.

Q. Or his mother?—A. I never heard of it in Paraguay or until I came into the camp of his enemies; on the contrary, I know that while I was in Paraguay his mother and sisters were treated as the first ladies in the land by himself and everybody. Their residence was at that time a few miles from Piribebuy, and when I left, my house being one of the best in Piribebuy, was given over to the mother of the president, where she lived with her daughters, and on many occasions it occurred to me that his devotion to her was exceedingly filial. He always treated her with the utmost respect, frequently communicating with her by telegraph, and was constantly sending messages to her. On the anniversary of her birth-day I was invited to dine at her house with a number of other people. I could not go that day, but I remember his sending all his children and Mrs. Lynch there to dine with her; he also sent presents to her.

Q. Who is Mrs. Lynch?—A. She is a lady of Irish parentage, of English birth, and of French education. She has lived with the President for some fifteen years, and is recognized and regarded by Lopez as the mistress of his household and the mother of his children, and is very much respected and loved in Paraguay, as far as my observation went. Lopez has no other family, that I am aware of; he has one son older, who was born before he knew Mrs. Lynch; but I heard of no other. Mrs. Lynch always presided at his table, and took care of all the internal affairs of his house, educating the children, and everything of that kind. She is a woman who has been most grossly maligned, I think, by the press of Buenos Ayres, which charged her with all sorts of immoralities, such as being cruel, instigating the President to unheard-of deeds of atrocity, and with everything that could be written against a woman.

Q. Does the public sentiment of the country sustain Lopez in bearing this relation to her?—A. It is the common practice in Paraguay; there is but little marriage there. There have been so many obstacles put in the way of marriage that, as an institution, it has almost passed out of the country. But, at the same time, men and women live there together as husband and wife; and the women are singularly faithful when they accept that relation. Great numbers of families live there in that way—in fact, it is quite customary in Paraguay.

Q. What do you know of the treatment of Messrs. Bliss and Masterman after they had been received by Admiral Davis?—A. Nothing, except what I have read in the papers since, and from which I derived the impression that they were kept under surveillance, and forbidden communication with the belligerents; and also an impression produced by reading a letter of Bliss to his parents, which has been put in evidence, as to their being treated with kindness and attention, and kept under no restraint. I had no doubt that they should be kept as prisoners; and, indeed, Mr. Washburn had no doubt on that subject, because on the 22d of July, in writing to the government of Paraguay, he uses this language: "I will, therefore, undertake to hold Mr. Bliss and Mr. Masterman close prisoners in this legation till I can send them out of the country, or till such time as the government may not object to their being set at liberty." Mr. Benitez replies, under date of July 23d: "I have not permitted myself to request of your excellency to keep as close prisoners in your legation Porter Cornelius Bliss and George F. Masterman; and it belongs exclusively to your excellency to do what is most befitting the internal service of your house. I have fulfilled a duty which I judged to be one of courtesy," &c. (See Senate Ex. Doc. 5, Part 2, 40th Congress, 3d session, pp. 67, 68.) There are a number of other extracts which, I think, all tend to show the same point; Mr. Washburn insisting that the proper course to be taken was to send these two men as close prisoners to the United States for trial, and that was the course which I considered we were bound in honor to adopt when they were delivered to us, and the whole question referred to the government at Washington for decision. This correspondence of Mr. Washburn's also convinced me that he had been treated with no discourtesy by the government of Paraguay; at no time threatened, and at no time under personal peril. That impression I have been under all the time, from first to last.

By Mr. SWANN:

Q. In your interviews with Lopez, did he ever refer to the relations which had existed between Mr. Washburn and himself?—A. He never did, that I remember, except on one occasion. He always avoided referring to the subject of the difficulty with Mr. Washburn; but he said once, in an apologetic sort of way, as if recognizing the delicacy of touching upon such a subject with me: "I ought to say that, ever since Mr. Washburn's arrival in the country," I think he said, "he has disliked me. There was a want of congeniality between us. Since his arrival in this country, I have never, personally, liked him, and for that reason I endeavored always to treat him, officially, with the more respect, because I recognized the lack of congeniality;" some such expression as that. That is the only time, however, that I recollect his referring to the subject, which I understood as showing his appreciation of the impropriety of his discussing with me the conduct of my predecessor.

By Mr. WILKINSON:

Q. Were you ever apprised of the fact that Lopez intercepted some of Mr. Washburn's dispatches to this government?—A. I was never apprised of it. I think the fact was stated in some publication of Mr. Washburn's. I do not remember whether I read it before going up to Paraguay or after coming down, but it is a circumstance that I have never believed.

Q. Why should you disbelieve it?—A. I do not think there was any reason or motive for President Lopez doing so—to be guilty of so great a violation of international right and the decencies of civilization. I can see no motive for it, and I believe Mr. Washburn only states it as a surmise.

Q. It is in evidence that some of Mr. Washburn's communications never reached here or got through.—A. There is just as much reason for suspecting the other side, who always believed Washburn was an enemy of theirs, and who subjected him to great embarrassment and annoyance while there. I think there would be more reason to suspect the allies of the two. But of course I have no knowledge on that subject. Their motive for preventing communication with the United States minister, in Paraguay, is more evident, however, than that of Lopez.

Q. But why should they wish to intercept a communication going from a minister to his government?—A. They certainly prevented all my communications during the whole time I was in Paraguay. They refused to receive the flag of truce, which was the surest way of intercepting them. Besides, they conducted a war against Lopez, one branch of which was to alienate the sympathies of the world from Paraguay and the Paraguayan cause, by these accounts of the unparalleled atrocities of Lopez. Moreover, many of their "victories" are achieved on paper only, and they feared that dispatches from the United States minister might discredit their accounts.

Q. You are aware that Lopez charges Mr. Washburn with being engaged in the alleged conspiracy?—A. Yes, sir; that also appears in this same correspondence.

Q. Did you ever know that Mr. Washburn wrote a letter to his brother in Maine, which was sent with the dispatches to the government, and which dispatches never reached here—a letter, giving his personal opinion of Lopez, which was very disparaging?—A. I never heard of it.

Q. How large, in population, is Piribebuy?—A. It has about three or four thousand inhabitants.

By Mr. ORTH:

Q. What was the date of your letter of recall?—A. It was dated the 15th of March, 1869, and was signed by Mr. E. B. Washburn.

By Mr. WILKINSON:

Q. Do you know how this Paraguayan war originated?—A. Yes, sir; I have formed convictions from pretty careful study of all the documents I could reach on the subject.

Q. Please state which party commenced active military operations.—A. About that, necessarily, there has always been great dispute. I will give the facts as I look upon them. The real causes of the war go back many years. There is the traditional antipathy between the Portuguese-American and the Spanish-American. Next there is the permanent hostility between the empire of Brazil and the republics. The empire of Brazil naturally and persistently seeks extension to the south and the control of the La Plata. The free navigation of the La Plata is essential to Paraguay, the mouth of that river being in possession of other states. It is also a necessity to Brazil, as it is the great channel to her interior possessions. Brazil has for a long time sought the absolute control of the La Plata. All her policy looked in that direction partly for the sake of aggrandizement, and also to secure a free channel for her interior possessions to the sea. This was the state of things existing at the time of the elder Lopez, in addition to other questions existing as to boundaries. The boundaries in South America were not fixed, especially as regards Paraguay. There was an outstanding question of boundary with

Brazil which the elder Lopez was willing to settle upon any terms rather than go to war. Brazil refused to settle at that time, and had the matter postponed for several years, and the commission which had been applied for or formed to settle it, adjourned. This was the question of the boundary between Paraguay and the interior of Brazil. Brazil claims, or pretends to claim, down to one of the interior rivers of Paraguay, and Paraguay claims territory which she now occupies further north and east. This question the elder Lopez was willing to settle with Brazil upon almost any terms. In the mean time, during these few years that the question was pending, or pending the adjournment, Brazil established in one of her border provinces a very large depot of arms and ammunition. She also instigated or set on foot in connection with the Argentine Republic—where there had always existed some jealousy of the neighboring republics—a revolution in Uruguay, which was headed by a man named Flores, who had less than a hundred men when he landed from Argentine territory. He kept up this revolution for a long time, sustained by Brazil and Buenos Ayres. At the time the Uruguayan government was in its greatest peril, Brazil presented a long list of reclamations to the government of Uruguay—in 1863 or 1864. The government of Uruguay applied to Lopez for assistance, but, of course, could not meet these reclamations, as only eight days were allowed for payment. The same minister that brought with him this list of reclamations, also brought a declaration of war against Uruguay. Lopez had offered his mediation upon this question of reclamations, and it was rejected. Then Lopez recognized the cause of Uruguay as his own, knowing that the destruction of Uruguay was merely preliminary to the destruction of Paraguay. Buenos Ayres was acting under Mitre in full accord with Brazil, and seeing this, Lopez notified Brazil that the crossing of troops into Uruguay would be regarded as a cause of war with Paraguay. This protest was made two or three months, I think, before the first acts of hostility. When Brazil, in the face of this protest, crossed her troops into Uruguay, there is no doubt to my mind that she did it accepting a war with Paraguay, and that no formal declaration of war was necessary; still, I believe a declaration of war followed. At any event, Lopez at once marched into Brazil and captured this depot of arms that they had established on his northern frontier. Lopez then believing that the Argentine Confederation was actually working in the interest of Brazil, and that the question of war with the Argentine Confederation was only a question of time—for it is a question of fact that Corrientes had been made a depot of arms and ammunition for Brazil, asked of the Argentine government permission to pass his troops through a portion of its territory for the purpose of invading Brazil—permission which they refused. Lopez then considering that their permitting Brazil to occupy their territory for warlike purposes and refusing the same privilege to him, was a sufficient evidence that they were hostile to him, answered their refusal by a declaration of war. He followed that declaration of war in a few days by a fleet and a force which occupied Corrientes and captured arms and ammunition which he has since been using. That, I think, is a correct statement of the origin of the war. Lopez is a very able man, and when he saw that war was a necessity, he preferred to strike the first blow. With regard to Uruguay, that he was right there, there is no question; because, with the destruction of Uruguay, Paraguay was shut in and under the control of her natural enemy, Brazil.

Q. Why should Brazil be the enemy of Paraguay?—A. Because in reality Paraguay was the most powerful of all the republics. It had never had a civil war; had a braver and more enduring people; a better people than any others in South America, and was consolidated under one head. Brazil knew that there was her greatest enemy.

Q. But why should she be opposed to a republic, such as you describe?—A. First, her desire to control the La Plata; and then Paraguay is a republic in name, and with an elective President, and Brazil would have a hostility against any republic situated on the borders of her slave-holding empire. I think there is a necessary antagonism.

Q. If I understand your description of this government of Lopez, it is an absolute despotism?—A. Lopez has absolute power, but, by consent of the people, he is an elective President. But with regard to the La Plata, Paraguay's position there was of the utmost importance to Brazil. Moreover, Brazil understands perfectly the vast resources of Paraguay. It is the most fertile and productive country in South America. It has resources far beyond those of any of its neighbors, in woods, minerals, coffee, rice, sugar, tobacco, &c. Brazil, naturally enough, considering her preponderance in power and numbers, has always looked to her extension over the waters of the La Plata. The question of boundary was certainly kept in abeyance by Brazil to furnish, when she was ready, a cause of war.

Q. What kind of government have the allies set up in that portion of Paraguay which they now occupy?—A. That has been done since I left there. I have been at a loss to find out what they have done. They proposed to put in power three Paraguayan traitors—native Paraguayans who had deserted Lopez—as a sort of consulate. But Brazil insisted upon her own candidate, and I do not know who has been selected President. It was not looked upon with favor in the Argentine confederation, or by the foreign ministers.

Q. Did they have money in circulation in Paraguay while you were there?—A. Yes, sir; a good deal of silver money.

Q. What have you to say in regard to the system of torture adopted by Lopez?—A. In many cases those who have been reported as put to death by Lopez, in fact, died of cholera in the hospitals; not only among his army, but prisoners also. Many—the greatest number—were shot for desertion; and I think it scarcely fair to charge all these as among the brutalities of Lopez. I have read the statement of Messrs. Bliss and Masterman in this respect, and I certainly am disposed to doubt very much of it. What Bliss calls the *cepo uruguana*, which is here known as “bucking,” I have no doubt has been practiced, but I never saw it, nor have I seen anybody who has. Still, hearing it so constantly repeated, I derived the impression that it was practiced. It was practiced in the allied army, according to the evidence of naval officers who saw men “bucked.” Whipping is also a mode of punishment in the Paraguayan army. Their system of jurisprudence is far behind ours. In all the South American States the accused is permitted to give evidence against himself.

Q. Did you see the letter that Admiral Davis wrote to Lopez before it was sent—the first letter that he wrote?—A. I did.

Q. Did Admiral Davis withdraw that letter?—A. I believe he substituted another letter for it. I do not remember whether the first letter was delivered or not. He had an interview with Lopez, which I declined to attend, though invited, thinking it would be better I should hold no intercourse with him until this matter was settled.

Q. Why did Admiral Davis do that?—A. He said that in this interview the President objected to the terms of that letter; that he was determined to deliver the men, but seemed desirous that it might be done with as little humiliation to himself before his people as possible. That is the idea I derived; and for that reason he would prefer a letter worded in different terms. But he stated he was going to deliver the men anyhow, and as the objection which he made to the letter, which I do not recall now, occurred to me to be a very trifling and unimportant objection on his part, and equally so to us, I thought that the admiral might with perfect propriety substitute another letter.

By Mr. SWANN:

Q. The admiral consulted with you?—A. Yes, sir.

By Mr. WILKINSON:

Q. Did the second letter suit Lopez?—A. I do not remember. I think he was dissatisfied still. The admiral seemed to think he did not intend to deliver up the men, and Lopez expressed some dissatisfaction that the admiral should receive such an impression, and said that he did intend to deliver them up; then he went on to speak about the admiral's receiving them as accused parties, admitting their complicity, &c.; but the admiral took the ground that it was not his province to enter into the circumstances of their guilt or innocence.

Q. Did you hear the admiral say anything about Lopez insisting in this interview that if he stood by this first letter that he would have to refer it to his minister, who was in the interior?—A. I do remember that. The admiral told me something of the kind.

Q. Or that it would have to be a subject of diplomatic negotiation?—A. I remember the fact of the admiral's mentioning it, but my recollection on the subject is vague.

By Mr. ORTH:

Q. Suppose that Lopez had refused to deliver up these men, what would you have done?—A. That was a question which we reserved for future, serious deliberation. We had formed no conclusion, but left it for future action. We had nothing but three little guns on the Wasp.

Q. Would you have presented your credentials?—A. No, sir. The only thing in doubt was, whether we would have made a belligerent display then or withdrawn and waited advices and reinforcements. But I certainly should not have presented my credentials.

By Mr. WILKINSON:

Q. In other words, Lopez did not deliver them up because they were American citizens; but he wanted the admiral to acknowledge that they were prisoners, to save him from humiliation?—A. I think not sir.

Q. Upon what theory did you understand that the government demanded the surrender of these men?—A. On the theory that Mr. Washburn, the minister of the United States had stated they were members of his legation. I considered that question—whether they were members of his legation or not—as one between Mr. Washburn and his government; that it was not for me or for Lopez to consider it at all. It was settled, so far as my conduct was concerned, by Mr. Washburn's declaration. How far the government would sustain Mr. Washburn, I could not tell.

Q. I understand, then, that when you reached Angostura the demand was to be

made because two members of the United States legation were wrongfully seized and held as prisoners?—A. Yes, sir; and the question of their guilt or innocence did not enter into that fact. That was the point upon which the admiral and myself agreed to present the question.

Q. The first letter of Admiral Davis to Lopez is dated December 3, 1868; you say another letter was afterward substituted for that—the letter of December 5?—A. I presume so.

Q. The government, through Lopez, insisted upon terms, and among those terms, in the last letter, one is that they are to be received by Admiral Davis as prisoners, and criminals virtually?—A. In saying that the President insisted upon terms, you must remember that what occurred between the Admiral and President Lopez I was not a witness of. After receiving the admiral's first letter, Lopez asked for an interview, which interview took place that evening. I was invited to be present, but declined. The interview lasted some time, and when the admiral came back he mentioned generally to me what the objections were. I only recollect that I thought the objections utterly unimportant, and was surprised at Lopez making any point about them; but as for his insisting upon them, I am not aware that he did.

Q. You state that Lopez insisted, all the time, that he was to deliver them up. How do you explain this portion of Lopez's letter: "I thought that I had made it distinctly apparent that his excellency regretted that it was not in his power to accede to the conditions of the first demand?"—A. You must take into consideration the fact that the translation may not give the precise sense.

Q. He adds further: "But since neither a reclamation nor a demand is in question." I understood you went up to demand a surrender.—A. Whatever those terms may mean is something I do not fully understand. However, in a previous letter it is stated that the President never had any intention but to deliver up the men unreservedly. He, of course, in objecting to the first letter, wished to raise the old question between Mr. Washburn and himself, (whether they were members of the legation,) but the admiral and myself had determined that question should not be discussed. I presume it is to that that the objection of the President was raised, because he hoped, naturally enough, to justify his seizure of these men to our government, upon the ground that they were not, in good faith, members of the legation. Now, he feared some expression used, in giving up these men according to Admiral Davis's demand, might be taken as a confession on his part that they were members of legation. It was an important point to him, and, as I understood it, this was his main objection. He wished to save his side of the question from any prejudice that might arise from the wording of the admiral's note.

Q. What do you think is the present population of Paraguay?—A. My impression is it is about two hundred thousand—perhaps more—chiefly women and children.

Q. What is the cause of that?—A. The war. The male population of Paraguay has almost been exterminated by the war. Paraguay, I might say, would have been subdued long since, except for the fact that a number of the prisoners taken by the allies find their way back to Lopez. Great numbers of them find their way back again to Lopez from the allied camps and from Buenos Ayres. I have seen instances of it myself. After the surrender of Angostura, quite a number of the troops came back and resumed their places in the ranks.

Q. Do the prisoners Lopez takes escape from him in the same way?—A. Sometimes. But the character of the Brazilian troops is not high. Their army is composed largely of negro slaves, sent by their masters. It is also recruited from the galleys, and many of them have no interest in the war, and I do not think they would be anxious to escape if they could.

By Mr. SWANN:

Q. What is your estimate of the strength of Lopez's army?—A. My information is derived from accounts published in the papers recently. I think he has about five thousand troops now. The last accounts say two or three thousand men, and making reasonable allowance for the source from which this comes, I should put it at five thousand. He certainly had more than that at Ascurra. It depends upon how much allowance you must give to the allied reports. Their reports are very unreliable. I know, in one instance, where I happened to be present, where they moved forward and made a demonstration on Ascurra, or rather on the camp which Lopez had abandoned three or four days before. They cannonaded it several hours, and finally took possession of the place. In consequence of that, there was quite a celebration and illumination at Buenos Ayres. But I am aware that on that day the Paraguayans never fired a shot. So that their accounts are unreliable. I am inclined to think, now that there is no foreign representative in Paraguay, and no means of communication with the outer world, that they will be even more careless in their statements.

Q. Do you think that the people are pretty well exhausted?—A. Yes, sir, as a people; but whether Lopez will be able to prolong the war until the crash, which everybody anticipates in Brazil, comes, nobody can tell. His position is so far in the inte-

rior, that the present force which the allies have in Paraguay will not be sufficient to engage him at the point at which he is now. In all their movements, I think as a general thing they do not attempt to carry Paraguayan entrenchments, but flank him when they can, and then he retreats. That is the history of the war. I think, in his present position, it will not be possible to flank him, because he is in the long line of the Cordilleras, and has behind him an impenetrable forest.

Q. How can he maintain himself there?—A. He did not fall back, I think, from Ascurra until he collected all the growing crops in the region of Piribebuy and the country he has abandoned, and that will sustain the people for an indefinite period until he can plant and raise crops again in his rear.

Q. Have the women and children gone with him?—A. I think it very likely. I have seen it mentioned that quite a number had arrived at Buenos Ayres.

Q. Do you think he has taken his treasure with him?—A. Yes, sir, I think he has. I saw a statement that they had captured large sums of money—a chest containing a large amount of Brazilian money at Piribebuy—which he had taken at the beginning of the war. That is, however, only a newspaper statement.

Q. From all the information you have, then, you think Lopez will be able to hold out for some time?—A. I think it likely; but whether he will be able to hold out a sufficient length of time to cause the financial revolution which everybody seems to fear for Brazil, I cannot say. That is his policy. I heard him say that. In fact, when I left Paraguay, he was firmly convinced that the war would close in six weeks or two months, with the discomfiture of the allies and their withdrawal from Paraguay. He felt confident of that, and frequently spoke of the financial condition of the Brazilians. His losses in the early part of the war made it almost impossible for him to make the war one of aggression or invasion as he had hoped, and he relies chiefly upon the financial distresses of the allies to break them.

Testimony of Hon. H. G. Worthington.

WASHINGTON, D. C.,
November 10, 1869.

Hon. H. G. WORTHINGTON sworn and examined.

By Mr. ORTH:

Question. What official position under the government have you recently occupied?—Answer. Minister resident of the United States to the Argentine Republic and to Uruguay.

Q. At what time did you occupy that position?—A. As minister to the Argentine Republic, from June, 1868, to the latter part of July, 1869; and as minister to Uruguay, from October, 1868, until the same date in July, 1869.

Q. When did you leave for your official post, and by what means of conveyance did you proceed?—A. I left New York on the 23d day of July, 1868, by the American line of steamers for Rio de Janeiro, and from Rio I proceeded in the French packet. I went all the way by said conveyance from this country to Buenos Ayres.

Q. At what time did you reach Buenos Ayres?—A. The latter part of August, 1868.

Q. Was your official residence at Buenos Ayres during the whole period of your service?—A. Yes, sir, all the time. I never resided at Montevideo. Buenos Ayres was made the headquarters of the legation for Uruguay by instructions from the State Department.

Q. What opportunities did you have for seeing the operations of the allied forces against Paraguay during your residence there?—A. I have had no opportunities for personal observation. All the information I have I derived from the representations of others, by communicating with officers of the army and navy.

Q. Did you ever go up the river?—A. Never further than Rosario, which was within my jurisdiction.

Q. The allied fleet was then higher up the river?—A. Yes, sir; many hundred miles above Rosario.

Q. Did you meet Mr. Washburn while you were there?—A. Yes, sir; I met Mr. Washburn in Buenos Ayres on the very day of his return from Paraguay.

Q. Did you learn from him the circumstances attending his withdrawal from Paraguay?—A. Many of them at that time and also in subsequent interviews.

Q. Did you at or about that time have any interview with Admiral Davis, or with any officers of the American squadron?—A. Subsequent to that time I did. My first interview with Admiral Davis, and also with some of his staff, took place upon the arrival of General McMahon to succeed Mr. Washburn.

Q. Was this at the time Admiral Davis was about to proceed to Paraguay to obtain

the release of Messrs. Bliss and Masterman?—A. He was about proceeding to Paraguay to carry up General McMahon to his post.

Q. Did the admiral state that as the main object of his going to Paraguay at that time?—A. I understood that to be his purpose.

Q. Did he say anything with reference to Bliss and Masterman?—A. I think not at that time. I will state the circumstances attending my interview with Admiral Davis. It occurred one Sunday. I had gone with some friends out of town, to a little place about six or seven miles from Buenos Ayres, when a boat came up the river containing a number of gentlemen who made inquiries for me, and on going to the boat I ascertained they were Admiral Davis, Captain Kirkland, and General McMahon. After an exchange of salutations General McMahon handed me a communication from the department directing me to obtain certain information about his free passage up the river. He said that he was anxious to proceed immediately to his post of duty, and desired me to obtain that information as speedily as possible. On the following Monday I accompanied Admiral Davis, Captain Kirkland, and General McMahon, on the *Wasp*, to Montevideo, for the purpose of ascertaining the views of that government. We remained there, I think, until Tuesday evening, and then I returned to Buenos Ayres, after having obtained the information as instructed, which I communicated to General McMahon, and he proceeded with Admiral Davis up the river. In the mean time I know all these gentlemen saw Mr. Washburn, and I believe there was a general conversation about the arrest of Bliss and Masterman; but what would be the definite course that Admiral Davis would adopt, I learned from him, depended very much upon circumstances as they existed upon his arrival in Paraguay.

Q. Had you any difficulty in obtaining the desired permission from the two governments to which you were accredited, for the *Wasp* to proceed to Paraguay?—A. Not exactly difficulty. There was some delay, because the Uruguayan government requested time until they could confer with the Brazilian plenipotentiary and with their allies. The Argentine government also requested two or three days for same purpose, at the expiration of which they furnished me a very satisfactory response to my dispatch, and not only gave me the consent or assurance of the Argentine and Uruguayan governments that all obstacles were removed, but also that all obstacles would be removed on the part of the Brazilian troops.

Q. Did General McMahon have any other interview with you than with reference to his passing up through the allied forces?—A. Yes, sir; we talked generally.

Q. I mean with special reference to his going to Paraguay to represent our government there; did he ask your opinion in reference to going there?—A. I do not think he asked my opinion. He told me he was going to his post of duty, as he was instructed, and that he was anxious to get there as speedily as possible, in consequence of the difficulties.

Q. Did you understand that his instructions in reference to calling upon you related simply to his free passage up the river?—A. Yes, sir; I understood that; nothing else.

Q. What did you learn from Admiral Davis as to his feelings toward Mr. Washburn at that or any subsequent time?—A. Well, I thought just about that time the admiral was alternating somewhat in his feelings toward Mr. Washburn. Just at that particular time he was a good deal annoyed, and manifested, in the various conversations I had with him, his annoyance at the hostility of General Webb. Subsequent to that time I think that the admiral's feelings were affected rather in an unfriendly way toward Mr. Washburn—more so certainly afterward than at that time, because, when the admiral came over, he called on Mr. Washburn at his hotel and had an interview with him. I think, I am not entirely certain, that Mr. Washburn returned the call and had an interview with the admiral in my office at the hotel; and the admiral at that time expressed to me satisfaction at his interview with Mr. Washburn. Well, he went up the river, and when he came back he brought Bliss and Masterman, and when I next saw him he had transferred his flag again from the *Wasp* to the *Guerriere*. I went over to the *Guerriere* especially to see him. The admiral's opinions and feelings very manifestly, to my mind, had undergone a change.

Q. Unfavorably to Mr. Washburn?—A. Yes, sir.

Q. Did he criticise Mr. Washburn's conduct in leaving Paraguay, finding fault with it, approving or disapproving of it?—A. I will not say that he found fault. I think he disapproved of it. I will not say that his censure went beyond disapprobation at that time.

Q. What feelings did he manifest, if any, with regard to Bliss and Masterman?—A. A disrespect for them. He had no confidence in them, and, I am rather inclined to think, from the manner in which he talked, no respect for them; indeed I know it.

Q. How did he speak of Lopez?—A. He spoke of Lopez as being a courteous gentleman, who treated him with profound respect; a man of fine bearing. He spoke of his shrewdness, and in a way to satisfy me that he was very decidedly impressed with the general bearing of Lopez.

Q. Did he speak of having had a personal interview with Lopez?—A. Yes, sir; quite a protracted one, I understood from him.

Q. Did you see Bliss and Masterman after their arrival?—A. I did.

Q. On what vessel?—A. On the *Guerriere*, in harbor of Montevideo.

Q. Did you have any conversation with them?—A. I did.

Q. Did you have any difficulty in obtaining an interview with them?—A. No difficulty. I first asked Captain Ramsay if I could have a conversation with Bliss and Masterman. Captain Ramsay said he supposed of course I could, but that he would speak to the admiral, and he went immediately down and spoke to the admiral, and the admiral sent word back, "certainly."

Q. Were they under surveillance or restraint of any kind upon that vessel?—A. Very clearly they were prisoners.

Q. Were they so regarded?—A. Yes, sir; so regarded as prisoners, from what the admiral said, and what everybody else said. They were not in chains.

Q. Were they deprived of their freedom?—A. Very clearly. They were on board that ship as prisoners, and, as I understood from the admiral, had been received as prisoners.

Q. Were they held by him at that time as prisoners?—A. I clearly understood that from him.

By Mr. WILKINSON:

Q. Was that the reason you asked his permission to see them?—A. It was; because I was aware of the fact that they were not free agents on board of the ship, and I felt it my duty to obtain the authority of the officers of the ship before communicating with them.

By Mr. SWANN:

Q. What information had you that induced you to think they were held as prisoners on board that ship?—A. The general report of the community, and from my conversation with Captain Ramsay and other officers of the ship after my arrival on board, besides letters I received from General McMahon at the time of the surrender of them by Lopez.

Q. They told you Bliss and Masterman were prisoners?—A. Yes, sir; and besides that, I had received letters to that effect from General McMahon upon the return of the *Wasp*.

Q. Did those letters recognize the fact that they were held as prisoners?—A. Yes, sir; General McMahon wrote to me—and it was the last communication I received from him until just before he returned from Paraguay—stating the circumstances of his arrival, the examination of Bliss and Masterman before the commission, the determination of Lopez to surrender them; and in a subsequent letter, stated to me that at such a time they were surrendered as prisoners, to be carried to the United States to be tried on the charges that Lopez had preferred against them.

By Mr. ORTH:

Q. Have you that letter now in your possession?—A. I think I have, somewhere. It was a mere private, personal note.

By Mr. SWANN:

Q. What was the phraseology that he used in his letter, stating that these gentlemen were prisoners; can you recollect?—A. I cannot recollect in words exactly, but I recollect the substance of the communication very distinctly. It was that, when they arrived in Paraguay Admiral Davis immediately opened a correspondence with Lopez for the surrender of Bliss and Masterman; that Lopez, in the very beginning, announced his determination to surrender these men, but solicited a personal interview with the admiral; that during that interview, Lopez, time and time again, announced his readiness to surrender these men, but he persisted in his denial that they were entitled to the protection of the legation, and in his assertion that they sought an asylum in the legation to protect themselves against the consequences of their connection with the conspiracy for his destruction. But, repeating it again, he intended to surrender them to the United States authorities with the request that they should be sent to the United States, to be tried upon the evidence that he (Lopez) would furnish; and that accordingly they were surrendered and received by Admiral Davis, and he was to bring them down to send them to the United States for that purpose.

Q. Did you understand that Lopez made that a condition of their surrender—that they should be held as prisoners and delivered to the United States authorities?—A. No, sir; not a condition for their surrender; that he all along intended to surrender them.

Q. Without condition, and that he simply made this a request?—A. Yes, sir; General McMahon also stated about the examination of these persons before the commission. I will state here that I went on board the *Guerriere* early in the morning, and while I was aboard some other gentlemen came there and desired to see Bliss and Masterman. I do not know whether they were allowed to see them or not. But I had quite a protracted interview with them, in my desire to find out something about the condition of things in the country.

By Mr. SWANN:

Q. I understand you to say that there were no tangible facts upon which Mr. Bliss could have been accused of acting as a spy upon Mr. Washburn, but that the general estimate of his character induced the belief that he might be a spy?—A. Yes, sir; I never heard of any tangible facts either directly or indirectly. I have given the committee all the information I have had of this accusation against Mr. Bliss.

Q. Did you ever see a book written by Mr. Bliss during his imprisonment by Lopez?—A. Yes, sir; that is, I saw a book purporting to be written by Mr. Bliss. Indeed, Mr. Bliss told me he had written a book while he was in Paraguay.

Q. What impression did the perusal of that book make upon you?—A. A very unfavorable impression toward Mr. Bliss, from the fact that he had violently assailed Mr. Washburn in it. I had an interview with Mr. Bliss on this subject. I said, "Bliss, you lived with Mr. Washburn?" "Yes." "Mr. Washburn treated you kindly?" "Yes." "And Mrs. Washburn also?" "Always, sir." "They gave you a home?" "Yes." I then said to him, "Mr. Bliss, how did you have it in your heart to so assail and denounce your benefactor as you have?" Well, he said he did it to save his life; did it under torture or threats of torture. "But," said I, "was it necessary to preserve yourself from torture that you should go into all these details; facts that you could only have known from your intimate association and intercourse with Mr. Washburn; his early life in California, and everything of that sort?" Well, Bliss went on to explain about that, saying that it was necessary to make the lie as big as possible, and that he thought there was a good deal of philosophy in his way of writing that book; that he intended to make the lie as large as possible, so that it would carry with it its own refutation. That was his explanation of the matter: that the book, upon being read, it would suggest itself to everybody that it was done under some undue influence.

Q. I understand you to say, or rather to intimate, that from the impression made on you by Bliss and Masterman, you would not have trusted either of them?—A. In answering that, I must associate with it what the people of Buenos Ayres and Montevideo told me about Mr. Bliss.

By Mr. ORTH:

Q. Had he earned for himself a bad reputation in those places?—A. Yes, sir.

By Mr. WILKINSON:

Q. Were you prejudiced against him before you saw him?—A. Yes, sir, necessarily. I never heard a single man in Buenos Ayres speak well of Mr. Bliss.

By Mr. SWANN:

Q. Had Mr. Bliss been much in Buenos Ayres—long enough to make himself well known to the community?—A. Quite considerably, I think. The gentlemen with whom I most generally associated, the American population, seem all to have known him. I heard many English people talking about him, indifferently, also. I do not remember that they charged any specific act; but I have heard persons there say that they had no doubt that Bliss had been employed and paid by both sides—by both belligerents. I have heard such accusations. I do not say anything on this point of my own personal knowledge, because I never saw Mr. Bliss except during that hour's conversation I had with him on board the vessel. But I have heard these gentlemen in Buenos Ayres speak of him as a worthless, bumming scalawag, who was not to be respected, and ought not to be believed. Mr. Bliss's name was only prominently mentioned after his arrest; not so much before.

Q. In speaking of the relations between Mr. Washburn and Admiral Davis, I understand you to say that in the early part of their intercourse on public affairs, Admiral Davis spoke kindly of Mr. Washburn in a friendly spirit?—A. Yes, sir, and Mr. Washburn of Admiral Davis.

Q. And you state that subsequently, after he returned from Paraguay, Admiral Davis's opinion of Mr. Washburn had changed in regard to his conduct of public affairs in Paraguay?—A. I think so.

Q. Did you talk with Admiral Davis upon that subject?—A. In a general way; there was no secrecy in his criticism, as far as I was concerned.

Q. He did not reflect upon Mr. Washburn personally, or make any taunting remarks that showed prejudice against Mr. Washburn?—A. I do not remember that he did. I think Admiral Davis disapproved of many things that he heard asserted of Mr. Washburn in Paraguay. I do not know in what things. I think in leaving the legation, and in many other things. I do not think it to be those things that reflected on the personal integrity of Mr. Washburn. I knew the relations between them up to the time they went up, from the fact that Mr. Washburn and myself were in almost hourly communication, and were both watching with some anxiety the result of the interview between Admiral Davis, Mr. Washburn, and General McMahon. After the interview, Mr. Washburn told me that he had met Admiral Davis, and that he was perfectly satisfied, and everything was agreeable.

Q. At what time was this?—A. It was immediately after the admiral's first interview with Mr. Washburn.

Q. Was that after Mr. Washburn's return?—A. Yes, sir; his return from Paraguay, and before Admiral Davis went up. Then Mr. Washburn went away; he went to Montevideo. The day after Mr. Washburn had gone to Montevideo, in consequence of something that I heard, as well as my desire to see him personally, I jumped in the boat and went to Montevideo. I called on him; when I went in he was engaged in writing. He handed me some letters with the request that I deliver them to General McMahon, and some other papers. Then I discovered a change in Mr. Washburn's feelings toward Admiral Davis. Mr. Washburn complained to me of a neglect of courtesy; spoke of discourtesy on the part of the admiral; and in general talk I thought I then discovered a change in Mr. Washburn's mind toward Admiral Davis, and a change in those few days. However, Mr. Washburn made the remark to me at the time, that since he had been over in Montevideo, he had heard a good deal that he did not know in Buenos Ayres, and mentioned that Doctor Duvall had called to see him. I left Mr. Washburn and went away that day. When Mr. Washburn got to Rio, he wrote me again that he had heard other things that now made him extremely dissatisfied with the conduct of Admiral Davis. That is a condensed history of the relations, as I understood them up to that time, between Mr. Washburn and Admiral Davis. Mr. Washburn even used the expression in his letter to me from Rio de Janeiro, that he was utterly bewildered at the amount of lying and deception that had been resorted to, and referred to the impression that had been made in his mind in Buenos Ayres as having been removed by what he had heard at Montevideo and Rio.

Q. Did you know Doctor Duvall, the surgeon?—A. I did.

Q. What was your estimate of Doctor Duvall?—A. I have quite a personal regard for him; Doctor Duvall is a positive man, of fine impulses and strong prejudices; but I am not prepared to believe that Doctor Duvall wants to do anybody injustice.

Q. Do you know anything of the relations between Admiral Davis and General Webb?—A. Nothing, except what General Webb would write to me, and what the admiral would say.

Q. Did Admiral Davis ever complain of the interference of General Webb in any way?—A. Yes, sir.

Q. In what particulars?—A. The admiral thought that General Webb wanted at times not only to control his diplomatic service, but also the navy; General Webb always denied that, and thought that Admiral Davis, as a naval officer, did not act with sufficient energy and alacrity, when there was pressing necessity for action; in this case particularly, because this was the case in everybody's mind.

Q. Did General Webb complain to Admiral Davis of his want of activity in carrying out the instructions of his government, or say what he ought to have done, situated as he was?—A. I only know from General Webb's published correspondence and what I heard the admiral say. He did complain. He was dissatisfied, and, therefore, he complained of what he regarded as negligence of the public interests, in not securing the lives of American citizens, or acting with sufficient energy.

Q. Are you aware that any correspondence took place upon that particular point?—A. Yes, sir; that among others.

Q. Did you hear the admiral complain of the interference of General Webb in matters that he did not think he had a right to?—A. I have heard the admiral say that General Webb was, he thought, at times, disposed to control the movements of the squadron; but I never heard the admiral refer to Mr. Webb in disrespectful terms.

By Mr. ORTH:

Q. Do you know of Captain Ramsay and Lieutenant Davis being sent with dispatches to Minister McMahon? If so, state all the circumstances connected with that affair.—A. After the occupation of the city of Asuncion by the Brazilians, an American gentleman, who had visited Asuncion, returned to Buenos Ayres and communicated to me facts and circumstances attending the sacking of the American legation. I regarded that as making it necessary to send the Wasp up the river, for the treble purpose of examining into the facts, saving American property, and of communicating with General McMahon. For the purpose of facilitating that mission I communicated with the Uruguayan and Argentine governments, requesting them to send orders to their respective commanders to aid Captain Kirkland, who was in command of the Wasp, in communicating with General McMahon. These two governments furnished the orders upon which Captain Kirkland proceeded to Asuncion. When he got there he presented these orders, and these people refused to recognize them; the allies refused to recognize them, and refused to furnish any facilities at all, upon the ground that it might interfere with military operations that were then in contemplation; but adding that as soon as it could be done without interference with these military operations they would be pleased to do so. Captain Kirkland remained there many days. He had a very elaborate correspondence with them, and being detained there he directed his attention to the examination of the outrage on the legation. At that time the Guer-

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riere had gone on a trip to Rio, taking up Bliss and Masterman for transportation to the United States. But before the return of the *Wasp*, the *Guerriere* had returned to Montevideo. Captain Kirkland, after remaining there a number of days, finding these people were delaying him, and would furnish no facilities, came back to Buenos Ayres, or rather to Montevideo. As soon as I heard of his arrival I went over and saw the admiral. In the meantime some correspondence occurred between the admiral and myself, in which I urged the admiral to do everything he could to communicate with General McMahon. I was beginning to doubt McMahon's free agency in Paraguay. The United States had never received a dispatch from him, and I had dispatches in my office, with orders to transmit them to him, and I was anxious he should get them, and when these people had disregarded these instructions I then wanted Davis to do something, as the executive officer of our government, in order to enable me to communicate with General McMahon. A very considerable time elapsed and nothing was done. I made two or three visits to Montevideo for the purpose of conferring with Admiral Davis, urging all the time an effort in another direction to communicate with General McMahon. The only question was what course Admiral Davis should pursue to secure that result. During that time the correspondence was going on between the Argentine government and myself about the sufficient reason for declining to furnish an escort. While that correspondence was going on, Admiral Davis made his appearance in Buenos Ayres, and in some interviews that he had with the foreign department, of which I knew nothing except it was indirectly communicated to me, the foreign department informed the admiral that they had offered, in a note to me, to instruct their commanding officers to furnish every facility in their power to communicate with the American minister, subject, however, to the well understood provision, (that was their language,) that if the orders thus given should interfere with any military operations about to be executed, or in contemplation, that the order should be disregarded. Well, I did not like that, because I had been induced, at an expense of six or seven thousand dollars to the government, upon just such orders before, to send the *Wasp* to Paraguay, and I objected to it, and told the admiral so. The admiral having mentioned this to me verbally, I afterward communicated it in writing to him—the offer the Argentine government had made to me—in reply to which the admiral wrote me that in consequence of that information, and appreciating the necessity of communicating with the American minister, after so protracted a silence, in the interests of the government he would send a special bearer of dispatches to Paraguay; that he would send Captain Ramsay and Lieutenant Davis of his staff as special bearers of dispatches to Paraguay, and would be pleased to take charge of any communications I might have for transmission to General McMahon. In ten minutes I responded to him that I had a number of communications for General McMahon, and that I should be pleased to avail myself of the opportunity to send them to him. He replied that Captain Ramsay would call upon me to receive them, which he did, and he and Lieutenant Davis went to Paraguay. About two days after they had left for Paraguay, I received other dispatches for General McMahon, and among them his letter of recall, with instructions to forward them as speedily as possible. I found a Mr. Hopkins, a gentleman who was going up the river, to whom I intrusted these dispatches, with direction to deliver them to Captain Ramsay and take his receipt for them. He took passage by the regular packet boat, which went through, sailing night and day, while the *Wasp*, on which Captain Ramsay and Lieutenant Davis took passage, ran only during the daytime; consequently Mr. Hopkins managed to get there about the same time the *Wasp* arrived. He went out to the headquarters and found that Captain Ramsay was then negotiating about a flag of truce and escort, and understood that as soon as it became known to the Count de Eu that General McMahon's recall had been received, every facility then was furnished; and before Captain Ramsay started up, that very evening, he received, for the first time since General McMahon landed, under flag of truce, a bag of dispatches from General McMahon directed to me; and the day after that, I believe, he started and went through the Paraguayan lines and communicated with General McMahon.

By Mr. ORTH:

Q. Do you know of any reasons other than those of an official character, on the part of Admiral Davis, which induced him to send these special bearers of dispatches to General McMahon?—A. I know of no other reasons.

Q. Did Admiral Davis ever put himself in diplomatic relations with the Argentine government, and thus ignore the presence of the United States minister accredited to that government?—A. Yes; I think he did. It was at the time I was in correspondence with the Argentine government in reference to this same subject. The admiral made his appearance at Buenos Ayres and called on the Argentine minister of foreign affairs, when this matter was talked over; and when the admiral called on me I said to him, "Admiral, what are you going to do about this matter of communicating with General McMahon that I have persistently urged for some time?" "Why," said he, "they tell me they have offered to grant us all the facilities for that purpose." "Yes," said I,

"upon the same terms they gave us before; give us an order which their generals may ignore or disobey, if they think proper." "Well," said he, "I have arranged all that with them, and if you will just write me a communication that they have made that offer to you, I will immediately send Captain Ramsay through with dispatches to General McMahon." I went immediately home, but I felt that it was an unwarrantable interference by the admiral with the duties of the United States minister. But I was not so tenacious about the dignity of my position that I would let that stand in the way of communicating with General McMahon. I thought that the interests of my government demanded that communication should be opened, and therefore, I made no objection to Admiral Davis's action in the matter. We had not heard a word from General McMahon, directly or indirectly, for eight months, and he had not received a word from his government for that length of time. I thought if this state of things was to continue, we had better have no representative there at all. I therefore communicated to Admiral Davis the substance of the offer made me by the Argentine government, and he replied, as I have detailed before, that he would send Captain Ramsay and Lieutenant Davis to Paraguay.

By Mr. SWANN:

Q. I understand that that arrangement—except in regard to the admiral's interference with your duties—was satisfactory to you?—A. Yes, sir; because it was carrying out the purpose which I had been trying to accomplish. I was satisfied with anything that would result in communicating with General McMahon. But they had given identically the same instructions to their officers before. When we sent the Wasp up, at an expense to the government of about seven thousand dollars, and when the Wasp reached their military lines their commanders disregarded those instructions, and the Wasp had to return without accomplishing anything. Therefore, not regarding the reasons of the allied generals for disregarding the instructions of their government as at all sufficient, I was not disposed to have the Wasp go up again under the same circumstances and upon the same authority; and for that reason, but for the interference of Admiral Davis, I should have declined their offer and insisted upon their recognizing our right to communicate with our minister. It was a question of right, not of courtesy. It was a question whether we were to be debarred from communicating with General McMahon simply because the officers of the allied army thought it might interfere with military operations that were contemplated, but which had not been executed for forty days. I should have insisted upon the right to go up, and wanted Admiral Davis to land there even with fifty men, and made the allied powers, if they wanted to resist our efforts, do so by force. I said to him "You have not the force necessary for that purpose, but at least, let us assert the right."

Q. How did Davis and Ramsay's mission result?—A. It proved successful. It resulted in communication with General McMahon, and I was abundantly gratified; for at that time I began to have serious apprehensions in regard to General McMahon's free agency. At the same time I can not help insisting upon the preservation, independent of each other, of the civil and the naval service. And I am also bound to say that the Argentine government always manifested every disposition to afford all the facilities it could to the United States, in every way and under all circumstances, during my official residence there.

By Mr. ORTH:

Q. What position did the Argentine government occupy in this tripartite alliance?—A. It was secondary; that is, it had an equal vote with Brazil, but it is secondary in its influence and power.

Q. Was there any other instance in which Admiral Davis interfered, or attempted to interfere, with your rights and privileges as minister?—A. I have never made complaint at all to my government about these things, but there was another case in which I thought the admiral did interfere with my duties. It was this: The Argentine government wanted to have a survey made of the port of Buenos Ayres and at some other point, and they asked me to solicit the aid of Admiral Davis for that purpose. Upon consulting the admiral he informed me he would do it with pleasure, and was glad of the opportunity to give his young men practice, but that the usual method was to communicate with the home government, and the Navy Department would then refer the matter to the proper branch of that service that came within his jurisdiction, and he would be authorized then by the department to make it. I communicated with the government at Washington, and after some delay I received instructions from the department, authorizing Admiral Davis to make the survey, and instructions also to communicate, in a dispatch to the Argentine government, the pleasure that it afforded the United States to furnish these facilities. The same mails, I suppose, brought something from the Navy Department to Admiral Davis. It must have been so. However, Admiral Davis immediately came to Buenos Ayres with Mr. Mediava, who was interested in the matter, to make some examinations, before he had received any communication from me at all, and before I had time to send him

any communication, (I suppose, acting upon the authority of his instructions from the Navy Department,) and addressed a communication to the Argentine government on the subject.

Q. He did not address it through you?—A. No, sir. I never made any objection to him. I may have said that I thought these things ought to be done through the United States minister, if there was a minister there. I may have said something of that sort. I did not care materially about that, however; the other point I thought more important.

Q. Did you hear Mr. Washburn, at any time, make complaint of Admiral Davis for not extending to him the proper courtesies due to an American minister; if so, what was the special cause of complaint?—A. Mr. Washburn spoke to me, at Montevideo, of neglect, upon the part of the admiral, to extend to him the usual courtesies. I mentioned it to the admiral. The admiral made two replies. He said: "In the first place, as a matter of fact, Mr. Washburn, being an out-going minister, was not entitled to them." But he said, independent of that, he had either started, or was going to start (not only himself, but Mrs. Davis) to call upon Mr. and Mrs. Washburn, when a pampero or heavy wind sprang up, which prevented it.

By Mr. WILKINSON:

Q. Are you acquainted with the origin of this war between the allies and Paraguay?—A. I have no personal knowledge concerning it. I did not reach Buenos Ayres until some three or four years after the war began. I know historically about it.

Q. Who commenced the war; who struck the first blow?—A. I should suppose that Paraguay did, by the seizure of the steamer *Marquez de Olinda*, and the capture of Corrientes. I can only state my view about the commencement of the war. There is a great diversity of opinion in regard to that and other questions connected with the war. As an actual fact, it is universally admitted that Lopez began the war by the seizure of the *Marquez de Olinda*, a regular packet-boat, belonging to a Brazilian company; the capture, at the same time, of the governor of the Brazilian province of Matto-Grosso, and, subsequently, by invading the territory of the Argentine Republic.

Q. Had the allies organized an army, at the time of these captures, for the invasion of Paraguay?—A. I understand not. Lopez also went into the Argentine waters and captured two steamers at Corrientes, and, by means of these steamers, he subsequently brought down a large number of men, occupied Corrientes, and held it for some time.

Q. This was before there were any military operations going on against Paraguay—any organized military operations?—A. Understood to be so. I have understood that those in favor of Paraguay have asserted that all these things were superinduced by the revolution that was taking place at that time in Uruguay under the auspices of Brazil and the administration in power in the Argentine Republic, and which Lopez regarded as threatening the existence of republics in South America.

Q. Then after the capture of these vessels he used them to take his troops into the Argentine territory?—A. I understand so; these vessels and others that he had—a small navy.

Q. When the war commenced, what, or about what, was the population of Paraguay?—A. I had supposed upward of 600,000.

Q. What do you suppose it to be now?—A. I have no means of telling. There is such a diversity in the estimates of persons from Paraguay that I am at a loss to say. Doctor Stewart says 40,000; General McMahon says 200,000; Mr. Thompson says from 200,000 to 250,000.

Q. Is it the general impression among reliable and intelligent gentlemen who have had means of knowing, that one-half the entire population has been wiped out?—A. I should suppose a greater proportion.

Q. Taking this information from the most reliable sources, what proportion of the men of Paraguay, the able-bodied men, should you suppose had been wiped out in this war?—A. I do not know the division of the sexes. I have never heard any estimate on the subject. I talked with numbers of persons recently from Paraguay, before I left South America—with very many intelligent Paraguayans born and raised in the country, and I derived my information from them. I am very well satisfied that there is a very small male population left there. I look upon the war that is being carried on there as a war of the women and children on the one side, and the allies upon the other. There are hardly any men in the country; that is the information I have obtained. I have seen boys captured from the Paraguayan army; soldiers as young as eleven years. When anybody came down from the country I saw them and obtained all the information I could. My facilities for obtaining information were as good as any other man's in the country, for when anybody came from the country they would be brought to me and arrangements made by which I could see and talk with them. I felt it to be my duty so to do at that time, because General McMahon could get no dispatches through, and our government could receive no information about the condition of the country.

Q. I wish to call your attention to a document sent by Mr. Lidgerwood, a list of ex.

Hamburg," &c. In the list referred to, as examined by General McMahon in Buenos Ayres, the very first name after you open the book, among those who were executed by authority of Lopez, is "Sanchez, the venerable Vice-President." This book does not seem to contain it. I do not suppose that the Argentines, from what I know of them, would have forged any such paper for any purpose.

Q. You have then no doubt of the authenticity of the document, as regards its being a Paraguayan document?—A. None whatever. But as to the truth of the document, that is a different thing. I also believe what General McMahon says. I had perfect confidence in what he said. I might add that it is quite common in Paraguay, as well as in all Spanish countries, to find a great many persons bearing the same name.

Testimony of Richard C. Parsons.

WASHINGTON, D. C., November 10, 1869.

RICHARD C. PARSONS, Esq., sworn and examined.

By Mr. ORTH.

Question. Are you acquainted with Porter C. Bliss?—Answer. I am.

Q. How long have you known him?—A. I only knew him during the time I was United States consul at Rio de Janeiro. At that time he was acting as secretary for General Webb, our minister at that place. I was there a little over a year's time, and my impression is, Mr. Bliss was there during the whole of that time.

Q. Did you, while at Rio, become intimate with Mr. Bliss?—A. I lived next door to him and met him every day for several months.

Q. What was Mr. Bliss's character for integrity, so far as you know?—A. Perfectly unexceptionable while I was in Brazil.

Q. What was his general reputation for truth and veracity?—A. He had no general reputation, but his personal character, so far as I know, for truth, was unexceptionable. I thought Mr. Bliss a gentleman; he was a scholar of remarkable power; he commenced, after a few weeks' residence there, to compile a dictionary of the language. He was a peculiar man; he was an odd man. He was like a great many students I have met—had a great deal of brain and knowledge without a great deal of sense. He was an indiscreet man, in the sense that he would perhaps be running against people's prejudices. He knows several dialects and is a student of unusual accomplishments, and yet has not that practical turn of mind that would make his knowledge available. I should say his character while in Brazil was as good as that of any man in the empire for truth, veracity and integrity.

By Mr. SWANN:

Q. How long have you known him?—A. I never saw him from the time I left him in Brazil, until I met him here last year. My acquaintance with him extended only to Rio, and I could not say that he was with General Webb all the time I was there.

Q. How long were you with him in Rio?—A. My impression is, a year.

Q. He had then retired from his position?—A. My impression is that he and General Webb had some little difficulty, and that he left his employ as a secretary, and either had gone or was about going to leave Rio at the time I left, in July, 1862.

Q. Do you know why General Webb parted with him?—A. No, sir; I never heard General Webb speak about Mr. Bliss at all, to the best of my recollection.

Testimony of James Watson Webb.

WASHINGTON, D. C., Thursday November 11, 1869.

JAMES WATSON WEBB sworn and examined.

By Mr. ORTH:

Question. What official position have you occupied under the government recently?—Answer. I was envoy extraordinary and minister plenipotentiary to Brazil. I was appointed in June, 1861, and resigned in February, 1869, but did not cease to be minister until the 30th of June, 1869.

Q. Where were you stationed during that time?—A. At Rio de Janeiro.

Q. Were you absent at any time, and if so how long?—A. I was absent on one occasion. I went down to the La Plata, and was absent between thirty and forty days. I had a furlough in 1865, and was absent until March, 1869, and left finally May 25, 1869.

Q. You were there at Rio when the war commenced between the allies and Paraguay?—
A. Yes.

Q. Please give to the committee your impressions as to the origin of the war, stating what are known and accepted historical facts in regard to that war and its prosecution.—A. In my report to the government of the United States on the war, giving information as it came to me, some of the details vary from the facts as I now understand them. There had been a war between Brazil and Paraguay. About the period when the war was drawing to a close a change of administration took place in Brazil, and the brother of the secretary of the treasury was appointed governor of the province of Matto-Grosso. In order to reach Matto-Grosso from Rio it became necessary to go down to the mouth of the La Plata and ascend that river, then up the Paraguay to the seat of government of that province, (Managuara,) there being no passage across the land. The governor was ordered to go to his post, and, as stated in my report to our government, was the bearer of a letter from the Emperor of Brazil addressed to President Lopez, in Paraguay. I now understand that a special messenger was sent with the letter. The letter was similar in all respects to such letters sent to other nations with which Brazil may have diplomatic intercourse. It set forth the fact that the two daughters of the Emperor of Brazil were about to be married to two grandsons of Louis Philippe. As I have always understood, on the arrival of the Marquez de Olinda at Asuncion the governor demanded an interview. I now understand it was the bearer of dispatches who demanded the interview. At that interview Lopez reminded the minister of Brazil that he had previously given notice to the Brazilian government that if it invaded the republic of Uruguay he would consider that an act of war against him, (Lopez;) that that notice had never been regarded by Brazil; and that thereupon he declared that war *now* existed, and directed the capture of the Marquez de Olinda and all on board. That vessel had then left Asuncion and gone up the river. Another steamer was sent after her, and she was brought back. The minister was taken prisoner and sent into the interior. The secretary of the treasury of Brazil, who gave me this information, applied to me to assist him in conveying letters through Mr. Washburn, our minister, to his brother in captivity. I learned, further, from the government in Brazil that this was the first notice they had of the intention of Lopez to declare war. At all events, when the steamer Marquez de Olinda, with the governor of Matto-Grosso on board, ascended the Paraguay river, the government of Brazil had not the slightest conception that it was any part of the purpose of Lopez to declare war, but, on the contrary, supposed their relations with that government were of the best character. I may also state, although I did not get it from the government, that Lopez had applied to the Emperor of Brazil for the hand of his second daughter in marriage; and that he (Lopez) supposed, when this autograph letter was sent to him, it contained the Emperor's consent; and when he opened it and discovered that it contained a notice of the intended marriage of both daughters of the Emperor to the grandsons of Louis Philippe, that was the immediate cause of his declaration of war. This was in 1864; and the governor of Matto-Grosso, then captured by Lopez, was sent into the interior, and from that time for three or four years his relatives heard nothing from him. He was not held as a prisoner of war, but was sent back into the interior, and all intercourse with him by his relatives refused. Ultimately they heard of his death. I was applied to repeatedly, to see if any means could be devised to liberate him or to carry him funds, but he was never liberated, and finally died there.

Q. When did you first make the acquaintance of Mr. Washburn, our minister to Paraguay?—A. In 1861, in New York.

Q. Are you acquainted with Admiral Godon; and if so, where did you make his acquaintance?—A. I became acquainted with him in 1865, when he arrived at Rio as a commandant, and acting rear-admiral of the South Atlantic squadron, and reported himself to me as the minister of our government.

Q. At what time in 1865 did Mr. Washburn return from the United States to Paraguay?—A. It must have been some time in September or October.

Q. Where was Admiral Godon when Mr. Washburn arrived at Rio?—He probably was at Rio. I cannot answer positively. It is not customary for the squadrons to go south until the warm weather sets in, about November.

Q. State what you know of the difficulties between Admiral Godon and Minister Washburn in reference to Admiral Godon furnishing means of transportation for Mr. Washburn to his post.—A. I returned to Rio from the United States, arriving at Rio the first day of August, 1866, and was at that time exceedingly ill, so much so that my life was considered in danger. After a fortnight, probably, I went to my residence at Petropolis. By the first mail I received dispatches from the government of the United States, advising me that Mr. Washburn had been improperly detained in the river Plata, and that the allies had refused to permit him to pass to his post of duty. I no doubt had heard this previously by reports; but this was the first official, authentic information I had of the fact. I was instructed by Mr. Seward to say to the government of Brazil that this hindrance must be done away with, and if it was not removed within six or eight days, I was to demand my passports. On the 20th I at-

tempted to go to Rio but was too ill, but went there on the 21st, the day on which the mail steamer was to sail for the river Plata, having prepared a letter (which is published on page 323, Diplomatic Correspondence,) to be used in case of necessity. On calling at the foreign office, I had an interview with the director general, who is, in fact, the principal person in that office. I did not see the minister of foreign affairs; he represented that officer. In that interview, (the mail steamer for the La Plata being about to sail that day,) I made the declaration to him that unless I had authority from the government, before the sailing of the steamer, to communicate to Mr. Washburn that all hindrance to his passage to Asuncion in a United States vessel had been withdrawn, I should demand my passports. I was thereupon informed, after some little lapse of time, that all obstructions of the kind would be and had been removed, and that I was at liberty to write to that effect to Mr. Washburn.

A few days afterward Admiral Godon came into port with the flag-ship, and inquired of me whether it was true, as reported, that all hindrance and molestation to Mr. Washburn's proceeding to Paraguay had been removed; to which I replied by the letter already on record before this committee, that all obstructions to his proceeding to his post of duty had been removed, and that I had so advised Mr. Washburn. Admiral Godon, as I have said, originally arrived in Brazil in August, 1865, at a time when the Emperor of Brazil was with the army on the frontier, and of course I had no opportunity of presenting him, as was my custom with all officers who arrive in command of single ships or of squadrons. Therefore, after my return on the 1st of August, 1866, the admiral, who had never been presented, came to Petropolis, made me a visit, and, as was usual, staid at my house. While there he reminded me that he had never been presented, and asked me if I was willing to present him at an early day. I told him I would do so most cheerfully as soon as my health would permit me to visit Rio, and it was agreed, as soon as I was able to do so, that I should pay him a visit on board his flag-ship and ask for permission to present him, and remain until the presentation had taken place. I accordingly visited him on board the flag-ship, and made application to present him, and, as is usual, a day was fixed for the purpose. My visit, including time for the presentation, continued some five or six days. At the proper time the presentation was made by me. While on board the flag-ship, between the 17th and 22d, the admiral received a letter from Mr. Washburn, in which Mr. Washburn stated that the obstructions to his passage up the Paraguay had not been removed, and made no allusion whatever to the fact that I had advised him that all such obstructions had been and were removed. At this I was very much annoyed, as it appeared to me that he was intentionally ignoring the fact that I had succeeded in removing those obstructions. And at the same time I was exceedingly annoyed at there having been published in the Buenos Ayres papers a statement of the fact that I had said to the Brazilian government that unless they removed such obstructions I was directed by my government to demand my passports. I thereupon said at once that I should, on going back to my legation, write Mr. Washburn a letter, rebuking him for having ignored the fact that I had communicated to him that all obstructions were removed, and pointing out to him the great impropriety that he had been guilty of, and the injustice he had done me in making known what I considered as an important diplomatic secret, not to be used by anybody, and which had never transpired in Rio. Admiral Godon thereupon urged me to write that letter to Mr. Washburn from on board his ship. I told him that it was quite impossible for me to do so, as I must necessarily keep a copy of what I wrote, and that all through life I had found it impracticable to copy my own writing; that I necessarily changed it in copying it. He then offered me a clerk if I would write it on board, and also placed at my disposal his after-cabin for the purpose of writing. I am thus particular in stating why I did that work on board the ship, instead of waiting until I went to my legation, because Admiral Godon swears, as appears by the testimony I have now before me, that "the letter was written in my cabin, in my after-cabin, greatly to my annoyance. I did not care so much about the letter, but I didn't want it written there. I earnestly asked General Webb not to send that letter."

I wish to state most emphatically that there is not one word of truth in that testimony; that my letter never would have been written on board of that ship if Admiral Godon had not requested me to write it then and there, and had not removed my difficulty by placing at my disposal his cabin and his copyist. He says, on the same page, in another part of his testimony: "I regretted the letter; I did not think it was a proper one, and I told him so."

On the contrary, he expressed himself greatly pleased; and, in substance, said it was unanswerable. He also says, "He told me the letter had to go; he said, 'I write this letter because I am going to write to the Secretary of State; and this letter goes with it; we are obliged to send all our correspondence to the State Department.'" I will not say that I did not make that remark to Admiral Godon, but at that time I had a comparatively high estimate of the admiral, and such a remark would, in my judgment, have been a reflection on him—his intelligence. He, of course, was supposed to know, as well as I, that it was my duty to send all my correspondence to the State Department, and, I think, the fair inference is that I could not have made so unnecessary

and superfluous an observation to him. No doubt my offering as an excuse for not complying with his wish to have me write my letter on board, that I must copy my letter for the State Department, and therefore could not write it until I reached my legation, was the cause of his falling into this error. I state distinctly, that I did not write the letter at the request of Admiral Godon; but, having announced to him my determination to write such a letter as soon as I returned to my legation, he begged that I would write it on board the ship, and furnished me with facilities for so doing. He had nothing to do with prompting the letter. He says, on the same page: "You can judge better how to take letters from the general, but I had to take it for its face when it was marked 'official.'" I will only observe, in regard to that, that I have no doubt the admiral both believed and knew the contents of my letter to be true, and acted upon that supposition.

This may be as good a place as any other to state something which should precede another correction that I feel it necessary to make. Two or three days before my arrival at Rio, I reached Bahia. The steamer on which I was came to anchor, and I was visited by the officer in command of the United States steamer Nipsic, who reported to me that, on the day previous, he had saluted the Brazilian flag, in compliance with my promise to the Brazilian government in the arrangement of the Florida affair. To render intelligible what I am about to state, I must go back somewhat in the way of narrative. The pirate Florida had been cut out of Brazilian waters by the United States steamer Wachusett, Captain Collins, who, however, it is said, had nothing to do with the affair, he being in his cabin, and his executive officer, Lieutenant Beardsall, doing the work. That act, of course, produced very great excitement in Brazil, and rendered my position, temporarily, very embarrassing. But long before the arrival of Admiral Godon at Rio, I had definitively arranged the whole matter with the Brazilian government; and one of the conditions of that arrangement was, (we having accidentally sunk the Florida,) that the Brazilian flag should be saluted, and all honors paid to it in the harbor of Bahia, where its sanctity had been violated. Shortly after the admiral's arrival, I informed him of this arrangement with the Brazilian government, and that I should shortly call upon him to go to Bahia, taking me with him, for the purpose of firing the promised salute. He told me in reply, that he could do nothing of the kind, unless he had orders to that effect from the Secretary of the Navy, and that he did not think the Brazilians were entitled to any such salute. Inasmuch as I did not choose to raise a question in regard to the relative rights of ministers and naval officers, I said no more to him upon the subject, except that that salute must be fired in the way most complimentary to Brazil; and I immediately wrote to the government as I had done previously, urging that orders should be sent requiring the salute to be fired. When I learned that the salute had been fired by the Nipsic, the smallest vessel of the squadron, I was very much displeased; and, in an interview with Admiral Godon, complained to him of the improper manner in which that duty had been executed, and I insisted that he should have waited for my arrival, in order that it might be fired by himself, from his flag-ship, with me, the minister, on board. Originally, when I mentioned the subject, the admiral was opposed to any proceeding of the kind. He spoke disrespectfully of the Brazilians, and said they did not deserve a salute to their flag, and "pooh-poohed" the idea. The mode in which the salute was ultimately fired was considered exceedingly offensive to Brazil. My attention was called to it in the office of the minister of foreign affairs, and I apologized for the proceeding, basing the apology upon the ignorance of the admiral in regard to what etiquette, under such circumstances, required; and I assured the government of Brazil, that it was the intention of the government of the United States to have had that salute fired in the way most acceptable to Brazil; that in so doing we honored ourselves equally as much as we honored Brazil; and that I was quite as much displeased with the mode in which the condition was complied with as they could possibly be. The apology was accepted, and the disrespect exhibited by the admiral in the manner of executing this part of our arrangements produced no bad effect as regards my relations; but, unquestionably, the whole proceeding did not benefit the position of Admiral Godon, who, up to that time, had not been presented at court.

The committee will perceive that this salute must have been fired somewhere about the 28th or 29th of July; and about the middle of August Admiral Godon sailed for the north, instead of going south, or waiting to hear from Mr. Washburn. Consequently, the declaration of the admiral that his object in going north to Bahia was, by order of the government, to fire a salute *which had already been fired*, on account of the Florida affair, and to endeavor to renew a good state of feeling, is necessarily untrue. It is utterly impossible that this statement of the admiral can be true, because the salute was fired on the 28th or 29th of July, and the fact was known to him before he sailed. And it is equally improbable, in my judgment, that he ever received instructions from anybody, or from any member of the government of the United States in relation to the settlement of the Florida affair, or to endeavor to renew good feelings, as he says, in consequence of the bad feeling which may have been created by that affair. The Florida affair had occurred and been amicably arranged, with the exception of firing the salute,

long before the admiral came to Brazil; and that was done under his orders, and the fact published in the Rio papers, before, as he alleges, he sailed from Rio to do it.

In thus directly contradicting the testimony of Admiral Godon, I feel bound to say that it was a current rumor, while in command of the South Atlantic squadron, that he had a softening of the brain. I did not credit the rumor at the time, but I now feel it only charitable to believe that there was some ground for that rumor; or, otherwise, I would be compelled to think, as I know his testimony to be untrue, that he had intentionally misrepresented the facts in the case.

I desire also to state here that, in an article published in the Army and Navy Journal, purporting to be a history of the services of Admiral Godon, it was distinctly alleged that he had settled the Florida affair; while, as I have heretofore stated, it was settled long before he came to the station; and the gentleman who called my attention to that article attributed it to the admiral himself; or it might be that he had only furnished the facts.

Having alluded to Captain Collins, I desire to say, in connection with that naval officer, he having spoken of me as an enemy, that when officially informed by the Secretary of State that he had been tried and cashiered, and directed to report the fact to the Brazilian government, I did so promptly, and they were much gratified. I then said to the minister, without prompting from any source, "You do not war with individuals; our government has done its duty and recognized your right to demand the punishment of the offender. This settles the point of honor. Now be magnanimous and authorize me to request of our government to restore to Captain Collins his sword and his commission." The minister replied that that could only be done by a unanimous vote of the council of ministers, in consequence of the absence of the Emperor with the army, and he feared it would be impossible. I urged him, however, to try, and authorized him to say that I asked it of them, not officially, but as a personal favor, as the punishment of Captain Collins beyond the sentence of the court could not be of any importance to Brazil.

A cabinet council was in consequence convened, and I was requested to say to our government that Brazil duly appreciated what had been done, and desired that Captain Collins might be restored to his rank in the navy. This I did, and Captain Collins was accordingly restored and had a command conferred upon him. This is the full extent of my enmity to that naval officer.

Admiral Godon, in a letter addressed to the Secretary of the Navy, and by him published in the United States, states that at a dinner at the palace of the Emperor of Brazil he had a long interview with the Emperor, and did much toward drawing closer the relations between the two governments. The committee will perceive that the admiral was there from 1865 to 1866, without coming in contact with the Emperor. I presented him to the Emperor, in 1866, as an act of courtesy which I was not bound to perform, and to which presentation he had no claims except as an act of courtesy. He accompanied me on several occasions to court, where neither the minister nor persons attached to his suit can come in contact with the Emperor except to approach the throne, make a bow, and retire. The admiral was present at a ball given by the British minister who is now the British minister here, at which the Imperial family were present, and at which he undoubtedly had some passing conversation with the Emperor, as the Emperor spoke to everybody in authority and position. A few days afterward the Emperor gave a dinner to the Duke of Edinburgh, to whom the ball by the British minister had been given. The Duke of Edinburgh, upon being invited to dine with the Emperor, requested that all the admirals in port, he himself being a naval man, might be invited to meet him at the Emperor's table; with which request the Emperor complied, and Admiral Godon was invited, in common with the other admirals. As only the British minister was invited to that dinner, the diplomatic corps were duly apprised of that fact. The declaration of the admiral that he availed himself on that occasion of the opportunity presented to draw closer the relations between the United States and Brazil is simply ridiculous; and any person familiar with court etiquette will at once perceive that nothing of the kind could have been done or attempted. I think the two occasions to which I refer are the only ones on which the admiral ever was brought in contact with the Emperor, except when his Majesty visited the ships in the harbor, and our flag-ship among the number; and I think I will be safe in saying that, in consequence of the manner in which the salute was fired to the Brazilian flag in the harbor of Bahia, no individual in command of any squadron on the coast of South America was held in so little estimation by the Imperial family as Admiral Godon.

I wish to say to the committee that in my negotiations with the government of Brazil, in relation to Mr. Washburn's passing up the Paraguay, no distinction whatever was at any time drawn between the blockade and the military lines. Admiral Godon speaks of an interview that he had with the minister of foreign affairs. He had no business to have held any such interview. I being absent from the country, the *chargé d'affaires ad interim*, inexperienced in diplomatic matters, was induced—how, I cannot say—to take Admiral Godon with him, which I consider a great impropriety on his part; but I can easily conceive that the admiral *did* thrust upon our *chargé d'affaires*

his own views, from an occurrence which took place between the admiral, General Asboth, and myself. General Asboth, when passing through Rio, asked to have an interview with me, in order that I might give him my advice in regard to the principles of blockade, he being a foreigner, and his mission not being so high in rank as my own. I named, in the presence of Admiral Godon, a certain hour in the following day, when I would have an interview with General Asboth. At the hour named General Asboth appeared, accompanied by Admiral Godon. General Asboth commenced by making a statement of what might occur, assuming certain positions, and inquiring what would be his duty under such and such circumstances. Before I could reply Admiral Godon commenced answering the question and informing him what would be his duty in the case supposed. I permitted him to proceed until he had finished. His views were totally opposite to my own in regard to the international law upon the subject of blockades; and when he got through I said to General Asboth: "You will not pay the slightest regard to what Admiral Godon has said. He does not understand the subject about which he has proceeded to speak in answer to a question proposed to me;" whereupon the admiral flew into a passion and walked excitedly about the room. Finally, sobering down, he said: "How could you excite me so?" My answer was: "How could you come to a meeting to which you were not invited and answer a question put to me in a manner which I do not think at all correct? You obtruded your answer in response to a question of General Asboth put to me, and he must not pay the slightest regard to what you have said. It was none of your business, and you have drawn this thing upon yourself." Upon which he sobered down, and I told General Asboth what I thought, upon a certain contingency, it would be his duty to do. I allude to this fact as taken in connection with the other strange testimony that I find here, and which induces me to believe that there is something mentally wrong about the admiral in having placed such testimony upon record.

I find also here that he swears distinctly that he had good relations with all the ministers and consuls; whereas I reported to Mr. Seward, on the 10th of June, 1867, as found on page 124, that: "While I have taken no part in the controversy between Admiral Godon and Mr. Washburn, and have not permitted myself to express an opinion to either of them in approval or disapproval of their proceedings, I have a very clear conviction that, if the admiral had been so disposed, he could have sent Mr. Washburn to his post of duty shortly after his arrival in the river, without any interference on the part of the allies. But it appears that the admiral made it a matter of pride to ignore the rights and privileges of ministers and consuls, and has quarreled with nearly all of them except myself; that is to say, with Ministers Kirk, Washburn, and Asboth, and with Consul Monroe, and one or two others; and I am sorry to add that he has no friends among the officers of the squadron." And I now repeat this declaration made to the Secretary of State, and say to the committee that I have no doubt whatever of its accuracy.

It appears that the Secretary of State asked the Secretary of the Navy to have detached one of the smaller vessels to go up the Paraguay and bring down Mr. Washburn and his family, whose position was considered very precarious; that the Wasp was so detached, and that the government of Brazil sent her back. In the correspondence which grew out of that act, between the minister of foreign affairs and myself, and when Brazil insisted upon her right to do so, (send back the Wasp,) the minister of foreign affairs wrote to me, in reply to one of my dispatches, as follows:

"So true is this, and so worthy of consideration in view of the consequences on the part of friendly powers, that Admiral Godon himself, in 1866, when the passage of Mr. Washburn to Paraguay was in treaty, was the first to admit it, merely begging in his request for the permitting of the passage up the river to Asuncion of the said Minister Washburn, that it should be done in any way which would harmonize with the dignity of the United States and have been most convenient to Brazil and its allies; further desiring that Mr. Washburn might be helped forward to his destination, either by land or by water, without placing any obstacle in his way."

In reply to that I said:

"Your excellency next quotes Rear-Admiral Godon, then commanding the United States South Atlantic squadron, as fully justifying the action of the allies in 1868. 'So correct is this,' says your excellency, 'that Admiral Godon himself, in 1866, when the passage of Mr. Washburn to Paraguay was in treaty, was the first to admit it, merely begging in his request the passage of Mr. Washburn, and that he might be helped forward to his destination, *either by land or by water*, without placing any obstacle in his way. This is just what the Marquis de Caxias desired to effect in the present instance, had he not been denied the option.'"

It is for the committee to compare the extract from the letter to me with the letter as quoted by me, and if they can discover any misquotation it is more than I can. I did not quote his whole dispatch, but so far as I quoted I quoted correctly.

WASHINGTON, November 12, 1869.

Examination of JAMES WATSON WEBB—continued.

By Mr. ORTH:

Q. Please state to the committee what steps were taken for the purpose of bringing Mr. Washburn from Paraguay.—A. I think it will save time and cover the whole ground by my reading to the committee, from the New York Times of January 28, a communication from Washington, which is essentially accurate, and which, by making one or two changes and alterations, I can make so accurate as to properly constitute a part of my testimony. This communication was, to a certain extent, in substance dictated by me, and was submitted to and approved by me before publication. It is as follows:

"To the Editor of the New York Times:

"On the 8th of December the Senate called for the correspondence in regard 'to recent transactions in the region of the river Plate;' and a few days thereafter the House of Representatives called for the correspondence between our minister, General Webb, and the Brazilian government, on the subject of the United States steamer Wasp passing up the Paraguay to bring from Asuncion our minister, Mr. Charles A. Washburn, and family; and also General Webb's correspondence with Admiral Davis, upon the necessity of employing the squadron under his command, in vindicating the honor of our country and protecting the lives of the members of our legation in Paraguay, seized by Lopez.

"The latter correspondence will be far more interesting than the former, but it is doubtful whether it will make its appearance until after the adjournment of Congress, as it might very materially affect the appropriations for the naval service during the coming year. In his correspondence with the State Department, General Webb shows that one of our 'first-rate' steamers of war, 'admiral's yachts,' as he calls them, costs the government annually more than the entire diplomatic service of the United States; and yet the Secretary of the Navy may put in commission as many of these pleasure yachts as he pleases; and when in commission, they neglect to perform the duties for which they are sent abroad. At all events, such is the charge General Webb makes against the South Atlantic squadron, commanded by Admiral Charles H. Davis. In consequence of such neglect of duty by Admiral Davis, General Webb declares that he and the admiral have produced a great public scandal. Both of them, he says, cannot be right. One must be greatly in fault, and he, therefore, demands of the government that he or the admiral should be severely censured or recalled.

"The correspondence called for by the Senate is in print. It makes a very large volume; and I have selected from it all that appears in relation to the Wasp affair and Admiral Davis. This will be found exceedingly interesting, and it is rendered especially so by Minister Washburn's declaring to everybody that if the Wasp's arrival had been delayed two weeks, he and his family would never have been heard of again, as they would undoubtedly have been sent into the interior and disposed of. This, Mr. Washburn says, he knows was the purpose of Lopez, notwithstanding the reports that have been published since he left Paraguay of the tyrant's expressions of friendship for the United States. His plans of destroying Mr. Washburn, and all others who would bear witness to his atrocities, were frustrated by the arrival of the Wasp; and when the war is over and the facts are all known, Mr. Washburn says that the whole world will be aghast that such a monster as Lopez could be a member of the human race.

"This part of the correspondence sent to the Senate is very materially emasculated, on the ground that the Secretary of State did not consider himself justified, under the Senate call, to arraign a co-ordinate branch of the government, and therefore what General Webb says in his dispatches of the neglect of duty by Admiral Davis, and the disgrace brought upon us by his refusal to employ the large squadron under his command in defense of our national honor, as also his assertion that the annual cost of a first-rate steamer exceeds the entire cost of the diplomatic corps of the United States, &c., has been suppressed. All this will doubtless appear under the call of the House of Representatives; but that will be sent in at so late a period of the session that legislative action on it will be impossible.

"The following history of the affair, as gathered from the conversations of General Webb and Mr. Washburn, will enable you to fill up the omissions in the published correspondence.

"When, in 1865, Minister Washburn was on his return to his mission at Asuncion, Paraguay, the commander of the Brazilian naval forces, as also the commander-in-chief of the allied armies, refused to permit him to pass their line of blockade. He was detained, either at their headquarters or below it, for more than a year, when General Webb, on his return to Rio, in 1866, demanded of the Brazilian government that they must either withdraw all hindrance to his passing their lines, or at once give him (General Webb) his passports. The hindrance to Mr. Washburn's going to his post of

duty was thereupon withdrawn, and in October, 1866, the United States steamer Shamokin, with Minister Washburn on board, passed the allied lines of blockade.

"Mr. Washburn had been quietly at his post two years, when, in consequence of the disturbed state of the country, the Secretary of State addressed a note to the Secretary of the Navy, by order of the President, directing him to have a vessel detached from the South Atlantic squadron and dispatched to 'relieve Mr. Washburn and family from their embarrassing and probably dangerous position.' Admiral Davis was accordingly instructed to send a vessel to Asuncion for Mr. Washburn and his family. The United States steamer Wasp was thereupon sent up the river in discharge of that duty. On arrival at the allied headquarters the Marquis de Caxias peremptorily refused to permit her to pass his lines of blockade, and at the expiration of seven weeks she was compelled to return to Montevideo, at the mouth of the Plata. Lieutenant Commander Kirkland promptly reported the failure of his mission to Admiral Davis, then at Rio, and the Brazilian press boasted of the fact that the United States had been snubbed. Unfortunately, Mr. Seward, assuming, of course, that the right of passing the blockading lines having been settled by General Webb in 1866, there could be no possible obstruction to our minister being sent for in 1868, did not deem it necessary to apprise our minister at Rio of his intention to send a national vessel to Asuncion after Mr. Washburn. Consequently, the first intelligence which General Webb had received of the indignity offered by the commander-in-chief of the allied forces to our flag was through the offensive publications referred to in the Brazilian press; but he, of course, could do nothing, and had no right to interfere, until his attention was officially called to the subject by Admiral Davis, under whose orders the Wasp had ascended the river and met with the rebuff alluded to.

"An entire week elapsed after the arrival of the mail steamer from the Plata which brought the intelligence of the indignity offered to our flag, noted in the publications alluded to, both in Portuguese and English, when General Webb met Admiral Davis and expressed his astonishment that this important subject had not received his prompt attention. The admiral replied that he knew nothing of the matter. True, he had received quite voluminous dispatches from Commander Kirkland, but they had been lying unopened on his table. He would, however, on going on board the *Guerriere*, look into the affair.

"On the following morning General Webb received a private note from Admiral Davis, expressing a wish that he, the minister, would obtain *permission* for the Wasp to pass the blockading lines of the allies. The general proceeded at once to the flag-ship, returned the private note, and asked the admiral to write him an official note complaining of the outrage—for such he tried to convince the admiral it was—and especially to avoid saying anything about *permission* to relieve our minister from his critical and dangerous position.

"The admiral was at length roused to the gravity of the case, and agreed to have his official note and documents ready by ten o'clock the next morning, by which time the minister would get back from Petropolis, (forty miles distant,) where the archives of his legation were kept. At the time appointed, the minister was again on board the flag-ship, when the note to be addressed to him by the admiral was again modified to suit the circumstances of the case, and the minister, thus armed, proceeded to address his first note to the minister of foreign affairs, demanding the censure of the Marquis de Caxias, and the withdrawal of all hindrance to the Wasp's passing the allied lines after our minister.

"To this came the reply of De Souza, approving of the conduct of Caxias, and peremptorily refusing to let the Wasp go up.

"General Webb's position was now one of great embarrassment. He had no instructions from the State Department; he felt, in common with every American, that our flag had been outraged, and our country, to say the least of it, treated discourteously; he had the best reason for believing that the lives of our minister and family, and every member of his legation, were in danger; and he knew, beyond all peradventure, that the press and the public having approved of the Wasp's being turned back contemptuously, and the ministry having indorsed that approval in an official dispatch, nothing but a resort to extreme measures could force the Wasp up the river and save our legation. He was without instructions, and if he assumed the responsibility of resorting to extreme measures he was certain, if unsuccessful, to be censured, and most probably suspended and tried. But, as he says, the honor of the country was at stake; the representatives of every court in Europe were watching to report to their respective governments what amount of snubbing the great republic would peaceably bear; and the lives of our minister, his family, and legation were at stake. To have hesitated, under such circumstances, would not have been in character with the veteran editor of the *Courier and Enquirer*. He at once assumed the responsibility of construing the instructions of 1866 as applicable to the situation of affairs in 1868, in regard to which he had no instructions whatever, and was not even informed that Mr. Washburn had been sent for. And he, thereupon, again promptly demanded of the Brazilian govern-

ment the withdrawal of all hindrance to the Wasp passing to Asuncion, or his passports.

"This demand was made on the 13th of July, and on the same evening the liberal ministry resigned. The new ministry, ultra-conservative, reiterated the approval of the conduct of the commander-in-chief of the allied forces, and again peremptorily refused to let the Wasp go up. Pending this controversy, Admiral Davis used all his influence with General Webb to moderate his tone, and ask 'permission' for the Wasp to pass, declaring that, in his judgment, we could not claim to pass as a matter of right. General Webb insisted upon our right, according to every principle of international law. He admitted that if there were five roads to Paraguay, the allies might close four of them; but our diplomatic relations with Paraguay having been established in advance of their blockade, they must leave one road open by which we could communicate with our minister, and, as in this case, extricate him from an 'embarrassing if not dangerous situation.' At all events, the emergency was a pressing one. If Mr. Washburn and family were to be relieved, there could be no delay; and as certainly as he, General Webb, waived the right to go up, and with it his demand for his passports, just so certainly permission to go would be refused, in order to justify the Marquis of Caxias, and thus our country's flag be dishonored, and Washburn, his family and legation, be left to the tender mercies of the tyrant Lopez. The admiral then reminded the general of the risk he incurred in thus acting without instructions, and the probability of suspension or removal in case of failure. The general admitted all that was urged, but still persisted in adhering to the course he had marked out for himself, as due alike to humanity and to his convictions of what the national honor demanded.

"Three conferences took place between General Webb and the minister of foreign affairs of Brazil, at the request of the latter; and at the close of the last, General Webb compared his position to a car on a circular railroad, without any place to switch off, and which, of necessity, always returned to the starting point. The starting point in his case was—the Wasp must go up. From his position, that the Wasp must go up by right, he could not be persuaded, either by Admiral Davis or the Brazilian government; and it was finally arranged that the last dispatch of the Brazilian government, and General Webb's sharp reply to it, should both be withdrawn, and the Wasp go up without molestation. She went accordingly, and, as General Webb says to Admiral Davis, 'Thank God, in time to save the lives of Mr. Washburn and his family.'

"Mr. Washburn and his family were thus saved from the fate with which they were threatened; but Lopez, while he permitted their departure, after first declaring to Lieutenant Kirkland that he intended to keep possession of them, forcibly seized two members of our legation and kept them prisoners—an act of war, according to all well-settled principles of international law, and which rendered it impossible for Mr. Washburn's successor to recognize, or present credentials to him, until he had given satisfaction for his disgraceful and lawless conduct.

"When the intelligence reached Rio, on the 5th of October, Admiral Davis had proclaimed that his squadron would sail for the River Plate on Saturday, the 10th; and officers were on shore, settling up accounts, &c., although no written order had been issued fixing the day of sailing. On receiving Mr. Washburn's report, General Webb hurried on board and begged the admiral to sail on Thursday, the 8th, instead of Saturday, the 10th, and thus gain two entire days, and also urged him not to send the Shamokin home to be broken up, because she was as well qualified to do river duty as any vessel of his squadron, all of which, the Guerriere excepted, could go to Asuncion. He had five steamers, viz., the Pawnee, Kansas, Shamokin, Quinnebang, and Wasp, all capable of going to Asuncion—a force greater than the combined available force of the English, French, Spanish, and Italian squadrons—all of which were discharging the duty which belonged to us, and resenting an insult to our legation, while our squadron was lying idle in the bay of Rio.

"But the admiral resented the minister's application as an improper interference with his command, and not only refused to expedite his day of sailing to the 8th, but actually deferred his departure to the 29th, in order to gratify his feelings against the minister, much to the annoyance of every American in Rio, and greatly to the injury of our national prestige. And he refused to give any credence to Mr. Washburn's report, which, he said, was the production of a crazy man, written in apprehension of his life after all danger had passed, &c., &c. But all this appears in the correspondence inclosed.

"News received to-day demonstrates that if Admiral Davis had moved promptly when it was his duty to have hastened to the Plata, our national honor would at once have been vindicated, and this disgraceful affair have been avoided. General Webb is quite right in saying that he and the admiral cannot both be right, and that, in view of the great scandal they have caused, one of them should be severely censured and recalled. And Congress should heed what he says about the expenditures of the Navy Department. At least ten millions, now thrown away upon squadrons which are of

no use when most required, may be saved in the annual expenditures of that department.

"You will perceive that Admiral Davis was right in his prediction to General Webb that if unsuccessful in the course he adopted he would have been suspended at least. Mr. Seward's dispatches clearly demonstrate that Webb only escaped censure by the success of his energetic course; and if, as Mr. Charles A. Washburn says, that energy saved the lives of himself, family and legation, and at the same time vindicated the national honor, and received the applause of his diplomatic colleagues—all of whom stood by him—he can have nothing to regret in the whole of this proceeding.

"General Webb's justification of Minister Washburn in the Brazilian Times is complete; and at the same time his card removes from our government and minister the odium which attached to them in consequence of our squadron's lying idle in Rio and permitting others to do its work. But public sentiment at length drove Admiral Davis to the Plate, where events demonstrated that he should have gone at once.

"T.

"NEW YORK, *Monday, January 25, 1869.*"

I now propose to say to the committee, in answer to their question, that I first learned that the United States steamer *Wasp* had been sent from Montevideo to Asuncion for Minister Washburn and family, through the medium of the Brazilian press, which declared and boasted that the commanding general of the allies had refused to let her pass, and virtually bragged of the manner in which we had been snubbed by Brazil. Meeting Admiral Davis some days afterward, I asked whether he had received any information or reports from Commander Kirkland, and whether it was true that he had sent the *Wasp* up the river for Mr. Washburn, and that she had been sent back. He said he had received orders from the Navy Department to detach the *Wasp* for the purpose of bringing down Mr. Washburn and his family, but that he had not known until I mentioned it to him, that she had come back to Montevideo. I inquired whether Commander Kirkland had not reported his arrival and the facts of the case. He answered that he had certainly received very voluminous letters from Commander Kirkland, some four or five days previously, by the mail; but that they were then lying on his table unopened. I called his attention to the great importance of ascertaining what Commander Kirkland had reported; and pointed out to him, that if the *Wasp* had been sent back it was his duty to report the facts officially to me, in order that I might insist upon our rights, and obtain an order for the *Wasp* to go up. He informed me that immediately upon his return to his ship he would open those dispatches and ascertain whether the reports in the newspapers were true. He was then on the eve of taking a drive with Mrs. Davis on the north side of the bay, near my residence. I went to my house, collected the Brazilian papers which had spoken of the return of the *Wasp*, and went down to the admiral's boat and placed them in the hands of the coxswain, with a request that upon the admiral's return to go on board, he would place those papers in his hands, that he might see what had been said. That same evening, or early the following morning, I received a private note, on very small note paper, asking me to obtain permission from the Brazilian government to allow the *Wasp* to go up to Asuncion with Mr. Washburn. Of course I could not act upon such information, and I repaired on board the flag-ship as soon as possible, returned to him the private note, and pointed out the absolute necessity of his giving it an official form. I told him I would then leave the ship and go to Petropolis, some forty miles distant, where the archives of the legation were kept, and get certain documents which it would be necessary to use, and come down early in the morning; that I would be on board again between ten and eleven o'clock, when I hoped he would have ready the official letter agreed upon in regard to the *Wasp* having been sent back. I went to Petropolis and selected the necessary documents, remaining there during the night, and was back on board the flag-ship by half-past ten the next morning. The admiral had prepared a letter, which, however, did not cover the points of the case sufficiently well; and then, at my request, he showed me the original letter from the Secretary of State to the Secretary of the Navy, reciting the condition of Mr. Washburn and his family, and asking that a vessel might be detached to bring them down; and also the order from the Secretary of the Navy directing him, the admiral, to detach some one of his smaller vessels for that purpose. I then suggested the necessity of referring to these letters in his report to me, and also other changes, making the letter such as I thought would abundantly justify me in the course I deemed necessary to pursue in negotiating with the Brazilian government. I left the ship, and commenced immediately a correspondence with the government. At the proper time, and within a few hours, the admiral sent me his corrected letter containing the report from Commander Kirkland, and copies of his correspondence with Mr. Washburn and the commander-in-chief of the allied forces.

I would now again say, that instead of proceeding further with the details of this matter, I find in the *New York Times* of January 28 a letter purporting to be from its Washington correspondent, (see previous testimony of General Webb,) which, I admit,

was virtually dictated by myself, and all the statements in which, having reference to Admiral Davis and myself, are strictly and literally true, and, with the consent of the committee, I offer the whole of it as constituting a part of my testimony—thereby saving to all parties considerable time—not, however, being responsible for so much of this letter as refers to other parties.

I also refer the committee to the correspondence between Admiral Davis and myself, as furnished by me to the Department of State, and also my dispatches in relation to this matter.

[The dispatches referred to by the witness are published in Senate Ex. Doc. No. 5, 40th Congress, 3d session.]

I desire that the dispatch (Mr. Webb to Mr. Seward) No. 75, dated October 24, 1868, may be here inserted in full as written, the Department of State having only furnished extracts from it in the document just referred to. It is as follows:

“Mr. Webb to Mr Seward.

“No. 75.]

“LEGATION OF THE UNITED STATES,
“Rio de Janeiro, October 24, 1868.

“SIR: I have the honor to inclose herewith the continuance of my correspondence with Rear-Admiral Davis, numbered 3, 4, 5, and 6; No. 2 having already been forwarded with my dispatch No. 74, via England.

“In so much of that dispatch as assumed that Admiral Davis is popular on ship-board, I was in grievous error, as the long-suppressed quarrels and bickerings now become public scandal, and which terminated in the removal of Captain Corbin from the command of the flag-ship, the arrest and trial of the executive officer, &c., too clearly demonstrate. That the admiral is a scientific officer there can be no question; and yet, as an American, in view of the general obloquy he has brought upon our country, I cannot but regret that he should have been translated from the observatory, where he was in his element, to the command of a squadron, where he is entirely out of place, and apparently ignorant of his duties.

“In my second letter to the admiral I give only an extract from my hasty private note, written at the consulate, and asking a boat to be sent me. To show that my only object in suppressing any part of that note was to save time and labor, I now place the entire note before you. It was as follows:

““CONSULATE, 12½.

““MY DEAR ADMIRAL: I inclose for your perusal a letter from Washburn. I think we should talk this matter over, and see if anything can be done to relieve the two members of the United States legation, so outrageously seized by Lopez. It is one of those cases in which to do nothing is to do wrong, and it appears to me that the mere fact of sending up a force to look after our people would, at least, avert much reproach that will otherwise fall upon us.

““As to sending Washburn from the La Plata in a United States gunboat, that is quite unnecessary. Our government has brought him down from Asuncion, and that is demonstration sufficient. Now our duty is to look after the other members of the legation. No matter who appointed them, our obligation is equally binding. But I will come to you at two, or a little sooner. I have an appointment at the Foreign Office at one o'clock, and write this that you may turn the matter over in your mind before I join you. If your boat is at the landing at quarter to two, I shall doubtless be there.

““Your friend,

““WEBB.”

“In making this copy I have underscored the words ‘we’ and ‘our,’ because I learn from good authority, that in using those words I offended the admiral’s self-esteem; his fleet captain and confidential adviser having declared that, in the admiral’s judgment and his own, I was meddling with what did not concern me, and that I had no more to do with it than any other American at Rio.

“This accounts for my reception by the admiral, as detailed in my second note to him, marked 4, and dated October 9, when he declined doing anything; and so specially to hurry his departure, fixed for the 10th, and get off on Thursday, the 8th. I told him he left me no alternative but to address him an official note, recapitulating all I had said, and urging him to take up the Paraguay every vessel of his squadron of light draught of water, five in number. He said he hoped I would do nothing of the kind. I replied that it was my duty so to do, and make a requisition upon him for the employment of the squadron in the present emergency, and having done that, the responsibility of refusing to act would rest upon him. He answered, ‘I will write in reply; I do not choose to respond to your call. No, I will not say I do not choose to; I will reply, that on my arrival at the river I will investigate the matter.’ I rejoined, ‘There is nothing to

investigate. I have placed in your hands Mr. Washburn's report to me ; and that, and his letter to the British minister at Buenos Ayres, cover the whole ground.' In answer to this he said that Washburn's letter was not worthy of credit, as his fears for his life had disqualified him as a witness ; he was a frightened man, and his letter to me showed that he had not yet recovered from his fears. I insisted that I knew Washburn and indorsed all he had written, and that he, the admiral, had no right to listen to, or put faith in, what others said. We then agreed that our official differences of opinion in regard to a question of duty need not, and should not, cause any change in our personal relations.

"This was on Monday, the 5th. Mrs. Davis and daughter had spent the previous Thursday, Friday, and Saturday at our house ; and the admiral, Friday and Saturday ; and he desired me to say to Mrs. Webb that, with one exception, it was the pleasantest visit ever made in his somewhat protracted life. I replied, 'Then why not repeat it ?' and he answered that he certainly should do so.

"Judge, then, of my surprise at the receipt of his letter of the 8th. He is an exceedingly weak man, notwithstanding his accomplishments, and has those about him who have led him astray. One thing is certain ; we cannot both be right, and one of us should be severely censured, if not recalled.

"I will not attempt to describe the general feeling of indignation among Americans at the inaction of our squadron and the contemptuous terms in which intelligent men of all nationalities speak of us. To show that neither our government nor its minister are to blame in this, I inserted in a card defending Mr. Washburn, which I published yesterday, a paragraph to which I call your personal attention. You will find that card enclosed.

"General McMahon arrived in the steamer Mississippi on the 21st, and called on the 22d, after having been on board the flag-ship both on the 21st and 22d. Before showing me his instructions from you, he inquired if there would be any obstructions to his going up the Paraguay to Asuncion. I asked if he had any such purpose in view. He said that he had ; that Admiral Davis intended to take him to the river next week, when he would change his flag to one of the smaller vessels (the Pawnee) and take him up to Asuncion, in order that he might present his credentials to Lopez and liberate Bliss and Masterman.

"I told him (McMahon) that it was absolutely impossible, and would bring disgrace on our country ; that Lopez was an outlaw, in consequence of the outrage perpetrated on our legation ; and that to offer letters of credence to him, under existing circumstances, would simply disgrace us.

"He said there were so many versions of what had occurred that he could not decide what to do until he reached the river. I replied, 'That is an error ; there is but one version of the facts of the case to which you or I or the admiral can refer, or which we can receive, and that version is contained in the official report of your predecessor, the duly accredited minister of the United States to Paraguay, and indorsed by me from my knowledge of the man and his official character.'

"I then placed in his hands, for perusal, my correspondence with Admiral Davis. What subsequently passed between us may be gathered from the following letter, which I addressed to him yesterday, but which was not sent until to-day :

"LEGATION OF THE UNITED STATES,
"Boa Viagem, October 23, 1868.

"MY DEAR SIR: When you did me the honor to call at this legation yesterday, and intimated your intention to go up to Asuncion accompanied by Admiral Davis and the smaller vessels of the United States squadron, with a view of presenting your credentials to President Lopez and demanding the release of the members of our legation forcibly detained by him, I at once said that nothing of the kind could be done without bringing deep disgrace to our country, and rendering her the laughing-stock of the world. That the bare idea of presenting credentials from the United States government to a wretch who had just perpetrated against us the greatest outrage known to international intercourse, was something monstrous.

"To this you answered that there were so many versions of what had taken place in Paraguay, that you would not decide what to do until you reached the La Plata. I replied, 'That is an error. There is but one version of the facts of the case, to which you, I, or Admiral Davis can refer, or which we can receive, and that version is contained in the official report of your predecessor, the duly accredited minister of the United States to Paraguay, and indorsed by me, from the knowledge of the man and his official character.'

"I then placed in your hands, for perusal, my correspondence with Admiral Davis, urging him to employ the squadron under his command for the sole and only purpose it is kept here, viz, the vindication of our national honor, and the protection of the commerce and lives of our people, instead of keeping it idle in this harbor, when the ships of other nationalities are hastening to the scene of outrage upon us, and, through us, upon the civilized world. You proceeded to read what I placed in your hands, and

when nearly through with it, handed me your official instructions from the State Department, directing you to see me before you proceeded to the river.

"After you had finished reading the correspondence, upon which no comments were made by either of us, you proceeded to detail your programme on arrival at the La Plata. I listened and said, I did not like to make any comments upon it, unless you requested me to do so; although I freely admit, that on further reflection I should have deemed it my duty to have earnestly protested against any such proceeding, and distinctly have placed before you what I considered to be your duty in the premises. You thought of addressing a letter to the admiral setting forth your official character, &c., &c., and that you desired to present your credentials, and deliver to Lopez certain very friendly messages and assurances from the President, which he, the admiral, might send to Lopez.

"I advised against any such proceeding, and against your making any advances whatever toward Lopez; the whole matter having entirely changed since you were accredited to Paraguay. Lopez has placed himself entirely beyond the pale of civilized nations; and least of all can the United States have any intercourse with him, except through the naval and military power of the country. To me your duty appears very simple; and I will proceed to give you my view of it, holding myself responsible to our common superior for so doing.

"I think you should at once address an official note to Admiral Davis, stating who you are, and requiring from him the employment of the naval force under his command in rescuing the members of Mr. Washburn's legation, forcibly seized by the tyrant, in violation of every principle of international law and the comity of nations; and you should particularly press upon him the gravity of the emergency, and strive to enlighten him in regard to his duty in the premises, in order that our country may, as far as practicable, be relieved from the odium of being careless in affording protection to our legations throughout the world, and unmindful of our national honor; all of which he has most unhappily brought upon us by his obstinately refusing to employ our large squadron on this station in vindication of the national honor; instead of keeping it idle in this harbor, where it is of no more value than if at the bottom of the ocean. Strive to impress him with a realization of the disgrace inflicted upon us by leaving to other nationalities the defense of our honor and dignity when he and his squadron are here for no other purpose. Remind him that while for the purpose of this emergency his squadron is larger and more available than the combined squadrons of England, France, Spain, and Italy, he has left to them exclusively the vindication of our national dignity from the gross offense perpetrated against the civilized world, through the United States.

"You will find the admiral an amiable, courteous, and scientific gentleman, and doubtless without a superior as the superintendent of our national observatory, but utterly ignorant of the rights of legations, of the principles of diplomacy, and of the relative rights and duties of our ministers and naval commanders on foreign stations.

"Do all in your power to induce him to take all his squadron, except the *Guerriere*, up the Paraguay, and from the deck of the flag-ship send a flag of truce into the country, demanding, without parley, the immediate surrender of Bliss and Masterman. But let him not whisper even, much less proclaim, that since Lopez's outrage upon our legation, it is possible that under any conceivable state of things we can send him a minister until our government at Washington has declared itself satisfied and conciliated. He has virtually declared war upon the United States, and neither you nor I have a right to make peace, or to decide what the offended dignity of our country demands. If he is no longer in authority, then you have nothing to do with him; while if he is, then it is for our government to deal with him, and you and I have nothing to do but await its action. If, in the mean time, the allies shall set up a government of their own in Paraguay, as by treaty they are pledged to do, most assuredly you can have nothing to do with that affair; and if recognized at all, it must be by our government, and not by you or me. And you will do well to enlighten the admiral in regard to his duties in such a contingency, which in all probability is certain to occur.

"Under all the circumstances of the case, then, it is manifest that it is your duty to remain quietly at Buenos Ayres, or in that region, until you can receive further instructions from Mr. Seward. All your instructions and all your messages from the President to Lopez are canceled by the latter's act of war against the United States. This letter to you will constitute a part of my dispatch to the Department of State, by the *Mississippi* on the 26th, and beyond all peradventure you will be in possession of fresh instructions on or before the 1st of January, which will be less than two months after your arrival at the river. They will come by the return steamer, or if not, then by telegraph to our legation in London, and hence to the river by any one of the seven steamers now sailing monthly from Europe to the La Plata, touching at Rio.

"My only apprehension is that if Bliss and Masterman are still alive, they will have been rescued by one of the vessels of war belonging to other nationalities, now in Paraguay. That such is their intention, *I know*, and such intentions are not concealed in

the general indignation of the public at the non-action of our show-squadron on this station. God grant that we may be spared that blow.

"In my opinion, your course is a very simple one. You have no duties to discharge in connection with Paraguay. Lopez, by an act of war against the United States, has canceled alike your duties and your instructions; and nothing remains for you to do but to consult the honor and the dignity of your country, by remaining here or in the La Plata until you can hear from Washington.

"I inclose you a copy of Mr. Washburn's official letter to the British envoy extraordinary and minister plenipotentiary to the Argentine Republic, and through him to the other legations in Buenos Ayres. This is a duplicate of the one sent to me by Mr. Washburn, and which I sent to Admiral Davis, indorsing its authenticity, and I furnish it to you under like circumstances.

"Wishing you and your sisters a pleasant passage to the La Plata in the Guerriere, I am, my dear general, very sincerely, your colleague and obedient servant,

"J. WATSON WEBB.

"His Excellency General MARTIN T. McMAHON,

"United States Minister Resident to Paraguay."

"I should have stated sooner that when the Brazilian Times announced, on the 8th, that the United States squadron was under orders for the river, Admiral Davis, who had that day written me the exceedingly offensive note which called forth my second letter, addressed the editor of that paper as follows:

"FLAG-SHIP GUERRIERE, October 9, 1868.

"MY DEAR SIR: I am very much obliged to you for the two papers which you very kindly sent me, and I shall have the pleasure of saying this in person on my return from Petropolis.

"I see in these papers that you take an interest in the movements of my squadron, but that the source of your information is incorrect. Not only is the squadron not under orders for the La Plata, but no single vessel of the squadron is under sailing orders at this moment for any place.

"Very truly yours,

"C. H. DAVIS, Rear-Admiral.

"WILLIAM SCULLEY,

"Editor and Proprietor of the Anglo-Brazilian Times."

"I learn that the English have two boats up the Paraguay, and they are hourly expecting a third to arrive, which will be immediately sent up to join the Linnet and Beacon. France, Italy, and Portugal have one each. Lopez refused to give up his English prisoners to the English secretary of legation, Mr. Gould, who was on board the Linnet, and that gentleman immediately left to report to his minister at Buenos Ayres. Lopez then sent word to the French gunboat Decidée, that he was willing to release the Englishmen.

"Mr. Washburn writes me, under date of the 14th October, confirming the previous report that Lopez had shot both his brothers and his sister, the widow of General Barrios, who committed suicide some months ago to escape torture. And Mr. Matthew, the English envoy at this court, writes me as follows. Although his note is marked 'private,' I have his permission to send it to you:

"[Private.]

"OCTOBER 15, 1868.

"MY DEAR GENERAL: Will you allow me to ask what steps you are taking in consequence of the treatment of your legation in Paraguay? If the last letter published as from Mr. Bliss was genuine, its tone, I am sorry to say, confirms the belief that it was written under torture.

"Rumors of all kinds are, of course, rife, and I frankly confess that I expected ere this to have heard of some decided course of action, and I should be very sorry to see the prestige of the United States in this land affected by any unsuitable delay or hesitation in a case that seems worse than ours in Abyssinia.

"Indeed, I almost question whether all nations should not unite in bringing this monster to his senses. The latest accounts I see assert that Lopez had ordered his sister and his brothers to execution.

"With best regards to Mrs. Webb, believe me, my dear general, most truly yours,

"G. BUCKLEY MATTHEW.

"His Excellency General WEBB, &c., &c., &c."

"My only reply was a statement of the fact that Rear-Admiral Davis ignored my right to have any opinion on the subject, while his admiral, Ramsay, promptly responded to his calls, and sent every vessel he had up the Paraguay, and will send up the gunboat to arrive.

"The Emperor inquired of a gentleman only three days ago 'why Monsieur Webb

was so tardy. He was accustomed to be very prompt.' I furnished the answer in my letter in the Times of yesterday, defending the conduct of Mr. Washburn.

"I am mortified and grieved that in such an emergency we should have been so badly served by our naval force on this station; and solely because of a senseless jealousy of the Department of State and its representatives. The South Atlantic squadron has cost the United States treasury during the last three years not less than five millions of dollars, for which it has rendered no national services whatever, except such as could have been and were rendered by the smallest gunboats in the navy. And now, when an emergency arises in which it can be serviceable to the country, it does not suit the officer in command to employ it. Justly to estimate the character and cost of this refusal, you must bear in mind that the *Guerriere* and every other first-rate steamer in commission costs the government annually upward of \$400,000; or more than the entire diplomatic corps of the United States, including all incidental expenses, in any one year. And yet those 'first-rates' have become mere 'pleasure yachts' for those who command them. Rather expensive luxuries, these, in time of peace; and it is not very extraordinary that a man who is employed at an expense to the government of about half a million per annum, should hold in contempt the claims of one who costs the government only twelve thousand, *less income tax*. We have a great many 'first-rates' in commission, and nothing for them to do; and the time has arrived when our tax-payers, through their representatives, should inquire whether twenty gunboats in commission would not do the work of the country better than it has been done with one hundred and two vessels of war, including many 'first-rates.' And if the small number of vessels would render better service at a saving of from fifteen to twenty-five millions per annum, the government might be rendering a great service to the country by calling the attention of Congress to the fact.

"Very respectfully, your obedient servant,

"J. WATSON WEBB.

"Hon. WILLIAM H. SEWARD, *Secretary of State*."

Q. Had you any reason to suppose that Admiral Davis and Captain Ramsay entertained unfriendly feelings toward Mr. Washburn prior to their being informed of the arrest of Bliss and Masterman?—A. Certainly not. Nor have I any reason to believe that Mr. Washburn, up to that time, was ever discussed.

Q. Have you any such information after the arrest of Bliss and Masterman?—A. After the arrest of Bliss and Masterman was announced, it was generally understood that Admiral Davis, Captain Ramsay, and several other officers of the fleet, as well as the Brazilian press, openly denounced Mr. Washburn for having left Paraguay without bringing Bliss and Masterman with him. Of my own knowledge, I cannot say whether they did so denounce him.

By Mr. SWANN:

Q. When you say it was generally understood, do you mean to say it was the public opinion?—A. I mean to say that it was a matter of public discussion; that officers and others said to me, "Ramsay says it is cowardly; Admiral Davis condemns it."

Q. Did you publish a card in the Brazilian papers in reference to the withdrawal of Mr. Washburn from his mission at Asuncion?—A. I did. It was dated the 22d of October, 1868, and a copy of it sent to the Department of State. The card is as follows:

"LEGATION OF THE UNITED STATES,
"Boa Viagem, October 22, 1868.

"To the Editor of the Anglo-Brazilian Times:

"SIR: Now that the uncalled-for and inconsiderate abuse of Mr. Washburn, the United States minister to Paraguay, has abated, if not ceased, I desire to state one or two facts, calculated to vindicate the character of an American official who has faithfully discharged his duty, under very trying circumstances.

"In the first place, Mr. Washburn is the same individual who, in 1864, then United States minister at Asuncion, protested against the treatment of the Brazilian minister, Señor Viana da Lima, by President Lopez; and when he found that remonstrance was unavailing, threatened the tyrant to insist upon his passport and break up his legation, if da Lima were not treated with the consideration his diplomatic character demanded, and the necessary facilities afforded him to leave the country in a manner suited to the dignity of his position. For so doing, his conduct was greatly extolled by the Brazilian press and Brazilian officials, including his Imperial Majesty.

"Secondly. The peculiar character of Mr. Washburn's official correspondence with the Paraguayan foreign office is to be attributed solely to the dangerous situation in which he and his family were placed by Lopez, with a view, probably, to their destruction, and which is thus described in his report to me of what had occurred, dated Buenos Ayres, September 26:

"You will find a ridiculously long correspondence in regard to the different persons domiciled in my legation, which was published first by Lopez, in his Seminario, and has

been republished here. *On the continuance of this correspondence I felt that my life depended, and my great aim was to prolong it till the arrival of the Wasp, which I was certain you would send up. I wrote to gain time, all the while cherishing the hope she would come before Lopez committed any violence against me; for had he once proceeded to that, he would have gone to the last extremity. For one whole month I felt that I would have compromised by simply being shot; but I was afraid of his tortures, which he applies to all who do not make such declarations as he desires. And then I did not like to give him a chance to put forth any declarations as coming from me, when I should not be alive to deny them. Our correspondence ceased when the Wasp arrived. To have terminated it sooner, by indignantly returning the first dispatch containing imputations on my character, would have insured my destruction. Thank God and you, the Wasp arrived, and we were saved.*

"Thirdly. Mr. Washburn is no more responsible for the publication of that correspondence than I am for the United States squadron lying idle in this harbor, when all the available men-of-war belonging to other nationalities have long since been occupying the waters of Paraguay, and doing all in their power to protect the lives of their citizens. There is just as much justice in censuring Mr. Washburn for publishing his correspondence with Lopez as there is in visiting upon my government, our people, or myself, the just indignation expressed by the public, that our squadron (all of which, except the flag-ship, is peculiarly adaptable to river service) should be the only passive one on the coast, in an emergency which demands prompt action, not only in vindication of our national honor, but in the discharge of our duty to the civilized world, which, equally with the United States, has been insulted by the gross outrage perpetrated on our legation in Paraguay.

"Fourthly. Mr. Washburn may have been imprudent in giving expression to his feeling in regard to the dilatoriness of the Marquis of Caxias in concluding the war against Lopez; but it must not be forgotten that he was the victim of that dilatoriness, and that it very nearly cost him his life.

"The Brazilian army has exhibited extraordinary *dash* and abundant *daring* whenever it has had an opportunity to exhibit its soldierly qualities; and he who vindicates its character merits the thanks, instead of the condemnation, of the Brazilian public.

"Fifthly. Mr. Washburn is censured and called hard names, because he seemingly abandoned members of his legation to the wild beast of Paraguay. This condemnation has its origin in a manly and generous feeling, which I fully understand and appreciate; but it is based on erroneous information. If the Wasp had been lying at the wharf of Asuncion, doubtless, from my knowledge of Mr. Washburn's character, he would have placed his wife and child on board and ordered the steamer to leave, while he returned to brave the tyrant in his den, and share the fate of the members of his legation. But such was not the state of affairs. Mr. Washburn says: 'I demanded and received my passports, and abandoned my residence, and, with my wife, child, and servants, and the two members of my legation, started for the steamer—not the Wasp, but a Paraguayan steamer, which was to take us to the Wasp. When approaching the steamer, Bliss and Masterman were arrested at my side, and forcibly carried away. What was I to do? Follow them, and leave my wife and child in the streets of Asuncion? We had no home to return to. Should I have placed my wife on board the Paraguayan steamer, and left them to the tender mercies of Lopez's minions? My diplomatic functions having been brought to a close by my own act, Lopez would not have permitted me to resume them, and the seizure of the members of my legation, as much entitled to protection as I was, demonstrates what kind of *protection* was in store for all of us, and of how little value it was to my legation as to my family.'

"I will only repeat the language of the Buenos Ayres Standard: 'If Mr. Washburn has erred, he has erred on the right side; and his government and his country will fully indorse his conduct, against all the calumnies and slanders now heaped upon him by evidence not worth the paper upon which it is written.'

"Very respectfully, your obedient servant,

"J. WATSON WEBB."

Q. Had you interviews with Admiral Davis and Captain Ramsay after the publication of this card?—A. Never; that was after my correspondence with the admiral.

Q. Do you know the impression which that publication made upon them; whether favorable or otherwise?—A. I have no means of knowing the impression that it made upon them; but I am bound to say that, from the publication of that card up to the time of my leaving Rio, I never knew an intelligent Brazilian, or an intelligent American, whether of the navy or not, who disapproved or censured Mr. Washburn, while I did hear very many persons of high standing and good position defend and justify the course Mr. Washburn had pursued.

Q. What was the impression first made upon your mind on hearing of the course of Mr. Washburn on his retiring from Paraguay; was it the same as that expressed by Admiral Davis and Captain Ramsay?—A. I confess that it made an unfavorable impression upon my mind, until I received his explanation.

By Mr. ORTH:

Q. Are you acquainted with Porter Cornelius Bliss?—A. I know him well.

Q. State when you first made his acquaintance, and the opportunities you had of becoming acquainted with him.—A. In June, 1861, after I was appointed minister to Brazil, Mr. Bliss applied to me to name him as secretary of legation, and produced a volume of letters of recommendation, including the most eminent men in the Eastern States, from Mr. Everett, and from gentlemen connected with most of the literary and scientific institutions in the East, setting forth his great knowledge of the Indian languages, and his great facility in acquiring them, and recommending him to anybody and everybody who might have anything for him to do. Circumstances rendered it inexpedient for me to suggest him to the President for secretary of legation, but I proposed to him that he should take the place of private secretary to my family and tutor to my children, which he accepted. He wished to go to England, and I had sufficient confidence in him to allow him to leave in advance of us. When in England, on my way to Rio, he joined me, and his duties as secretary commenced. He was in my family as secretary and tutor some eighteen months, during which period I insisted on his always being treated by my associates of the diplomatic corps as a member of my family. Shortly after taking up my residence at Petropolis the members of my family were invited to a reception by one of my colleagues, and Mr. Bliss omitted; in consequence of which I gave notice to that colleague that unless Mr. Bliss was included I could not attend. He immediately came in person and invited Mr. Bliss, and apologized for the omission, on the ground that he had not appreciated his position as private secretary. Mr. Bliss, during the time he acted as tutor, got up a Portuguese dictionary, and very generally his mind was diverted from his duties as tutor, and his whole inclinations and aspirations were totally different from the duties pertaining to the position he held in my family. He had the greatest facility of acquiring language of any person I have ever met; but as tutor he was not successful, nor was he so constituted that he ever could have accomplished much. My arrangement with Mr. Bliss was to continue during three or four years, but he became anxious to get into the country and engage in literary pursuits and investigations, and he made application to me to be discharged as tutor upon his paying me the sum of three or four hundred dollars. I told him that of course I could not receive anything of that kind; that I myself had arrived at the conclusion he was better qualified for anything else than for teaching, and that I would very cheerfully abandon the arrangement; telling him at the same time that with his facility of acquiring language, his very wonderful memory, and his devotion to study, it was quite within his power to make his mark within the next ten years. When we parted he wrote a letter to me, thanking me for our kindness to him, and showing clearly that the relations on both sides between us were of the most friendly nature. The last thing I did before his leaving the house was to give him an outfit for the Indian country. I should here state that Mr. Bliss, as I understand, was the son of a missionary to the Indians, and born in the Indian country; that he had grown up among that people, and had developed great aptitude in acquiring a knowledge of Indian languages. The learned men at Rio soon became advised of his aptitude in acquiring a knowledge of scientific matters, and treated him with a great deal of consideration, and I understood, also, that the Emperor received him on different occasions, and exhibited great kindness toward him.

Mrs. Webb became an invalid to such an extent that it was necessary to leave Rio, and I sailed for the river Plata in December, 1862, on board the United States ship *Jamestown*, and asked Captain Price to give Mr. Bliss a passage on board, which he did. Mr. Bliss first told me when he came on board the English steamer at Southampton, for Brazil, that he was not familiar with a word of the Portuguese language. He studied Portuguese on board the steamer, and, before he had been in Brazil one month, a Brazilian lady expressed to me her utter astonishment at the facility with which he spoke the language. When we embarked at Rio for the *La Plata*, I am satisfied that Mr. Bliss was quite ignorant of the Spanish language. At Buenos Ayres I informed our countryman, Mr. Edward Hopkins, that I wanted Mr. Bliss to get employment under the Argentine government to make explorations in their Indian country, and requested him to introduce me to the minister of the interior, Mr. Rawlson, who was the son of an American. I stated to Mr. Rawlson, in recommending Bliss for employment, that he knew nothing about Spanish, but could, beyond all question, very soon acquire it. Mr. Rawlson promised to give him employment, and did employ him to take charge of a party to make investigation in regard to the Indian languages in the Argentine Republic. Hearing that he had been so employed, I waited upon Mr. Rawlson and thanked him for having employed him at my request. He said to me, "You said this young man does not know anything about Spanish; why, he speaks Spanish as well as most foreigners in this city." I replied, "If he does, he has learned it since he left Rio." From the time I left Buenos Ayres to the present, I know nothing of Mr. Bliss.

Q. How did you regard his character for integrity and veracity?—A. I have no doubt of his integrity. I have no means of judging of his character for veracity, except from his daily intercourse with the children, or something of that kind. As tutor,

I felt that he never impressed upon the children sufficiently the importance of truth. I do not know that he ever made any misrepresentations to me.

Q. Did you dissolve your connection with him because of his want of character for veracity?—A. I dissolved my connection with him, more than for any other reason, because of his utter disqualification for teaching; because he was passionate, and because he did not impress upon the children various things which I required him to do, and, particularly, the importance of truth.

Q. Did you tell Captain Kirkland, or any other person, you discharged him on account of his want of character for truth?—A. Never. I cannot say that I discharged Mr. Bliss at all. He, himself, was anxious to go.

By Mr. SWANN:

Q. What brought particularly to your notice the fact that he did not teach the importance of truth in the education of your children?—A. I cannot allude to any particular case at this time.

By Mr. WILKINSON:

Q. Did you, or not, regard his failure to impress the importance of truth upon your children as different from a man who would deliberately tell a falsehood?—A. If you should ask me the question whether, from my knowledge of Mr. Bliss, during the time of which I have been speaking, I would believe him under oath, I should answer that, without hesitation or qualification, I would. I would give full credence to Mr. Bliss under oath, or in any serious statement he should make to the public or to me.

By Mr. SWANN:

Q. Was he a man in whom you reposed entire confidence, and whom you would be disposed to trust under trying circumstances?—A. He was a boy of twenty-one or twenty-two at that time, and there are very few I would put implicit confidence in at that age, under trying circumstances. I cannot say that I would, and yet it would depend entirely upon what were the circumstances, and what the position was.

By Mr. WILKINSON:

Q. At the time he left you, was his character such, in your estimation, that if he had related to you an important fact, in which he himself was interested, or any other party was interested, you would have put full confidence in his statement?—A. Unlimited. If he had come to me and stated that such and such were facts, I would not have doubted his statements. I have no hesitation in saying that I believe the whole of his statement in relation to the conduct of Lopez toward him in Paraguay.

WASHINGTON, November 13, 1869.

Examination of JAMES WATSON WEBB continued:

When the committee adjourned yesterday I was being examined in relation to the character of Mr. Bliss for truth and veracity, and the chairman had asked me whether I had ever said to Captain Kirkland, or to any person, that I had discharged Mr. Bliss for lying and in consequence of his bad character. I replied that I had never so stated, and proceeded to show that it could not be true, by stating the circumstances under which we had parted. I have since read the testimony of Admiral Davis before this committee, in which he says he received a letter from Commander Kirkland informing him that I had told Kirkland that I had discharged Bliss for lying, &c.; and I presume the chairman's question was based upon that testimony. The letter referred to by Admiral Davis, from Commander Kirkland, bears date June 5, 1869. More than six years since I met him casually at Montevideo, a young lieutenant in the navy, whom I had never seen before and never expected to meet again. He writes to the admiral as follows:

"I considered Mr. Bliss to be an unfit subject to mess and live with gentlemen, as in January, 1863, General Webb had him for a private tutor, and brought him to this river from Rio Janeiro, where he left him because he was a natural liar, whose example, the general feared would contaminate his children. This I heard from the general's own lips at that time January, 1863."

Now, I would submit to the committee whether it is probable that I could have made any such false declaration to Lieutenant Kirkland, an entire stranger to me, in January, 1863—I having left about the 10th of that month—and at the very time when I had induced Captain Price to give Mr. Bliss a passage from Rio to the La Plata; when I had indorsed Bliss's character and procured for him an appointment in the Argentine Republic; and, finally, when taking leave of him, (Bliss,) I had requested my wife to make him a loan of money, if he needed it, which he declined! I had never seen or heard of such a person as Lieutenant Kirkland until my arrival at the river, and saw him then but a very few times. It is, therefore, utterly and absolutely impossible that while I was using my personal influence and my official character to get a place for Mr. Bliss, eulogizing his ability and vouching for the correctness of his con-

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duct, and offering to loan him money, I could have used the language to the lieutenant that I had discharged him for lying, thereby virtually contradicting all my actions. I will state to the committee that I separated from Mr. Bliss because he was not qualified to be a tutor of children; because his whole manner and all his habits of life were utterly contrary to those of my family; and that, although he never misrepresented the truth to me, yet there was a disregard, or rather an absence of appreciation of truth in his intercourse with the children and in teaching my children, which I greatly disapproved; but at the same time I have no hesitation in saying that I would believe, without any doubt, any representation made to me by Mr. Bliss, upon any serious question, and I would not hesitate a moment to give full credence to his testimony under oath.

The committee will observe that so far as I have any interest in this investigation, beyond what is purely of a public character, it becomes my duty to sustain my reports to the government in regard to the action of Admiral Davis, while in command of the fleet, and my version of the causes which induced him to delay proceeding to Paraguay, when in my judgment the interests of the country demanded that he should proceed promptly. I attributed, in my dispatches and letters and conversation, the refusal of the admiral to comply with the requisition I officially made upon him to a jealousy on his part—a jealousy which, unfortunately, exists in the navy—in regard to the respective rights and duties of ministers and naval officers. I believe, and I have reported to the government, that the delay which took place would never have occurred if I had not innocently felt it my duty to insist upon his expediting his departure. That being the issue between Admiral Davis and myself, I find in his testimony an attempt to attribute the delay in his movement to other causes. On page 4 of the manuscript testimony of Admiral Davis I find the following questions put to him:

“Q. When did you receive the first official notice of the imprisonment of Bliss and Masterman?—A. I must have received the first information from the letter of Mr. Washburn to Mr. Stewart, the British minister at Buenos Ayres. I then learned for the first time of their imprisonment.

“Q. You determined *then* to proceed to Paraguay and effect their release, without awaiting instructions from the department?—A. Yes, sir. I waited, however, for our minister to arrive.” [And at page 90 he says he *knew* he was coming “out in that steamer. That was my *motive* for waiting.”]

“Q. He brought no instructions?—A. No, sir; but I considered it his business. He, as minister to Paraguay, had a right to be consulted, and needed to take direction. That was the intention of the government, as he was specially instructed to act in co-operation with me, and I in co-operation with him.”

The information obtained from Mr. Washburn's letter to the British minister at Buenos Ayres must have been, according to the best of my recollection and knowledge of dates, on the 5th day of October, when it appeared in the Brazilian papers; and the admiral swears that *at that time* he determined to proceed to Paraguay and release them, but that he awaited the arrival of our minister, who, he assures the committee, he *knew* would arrive in the next steamer.

If this testimony of the admiral be of value, it arises simply from the fact that he actually possessed such knowledge. I was there officially, in constant communication with the government, and I had no knowledge of the kind; and I did not know that General McMahon would arrive in the next steamer. I have, therefore, gone into an investigation of the dates of several published official documents, in order to discover how it was possible for Admiral Davis to be in possession of the fact that the minister would arrive in the next steamer, to reach Rio on the 20th, when I had no means of coming to such a conclusion.

In the first place, the admiral left my house on the evening of the 3d day of October, after dinner, and after having spent several days with his wife and child at the legation, as my guest. At the dinner table, on the 3d of October, he stated distinctly that he should sail from Rio on the following Saturday, it being the 10th of October; or, if he did not get off on Saturday, the 10th, he would most certainly leave on Monday, the 12th, or possibly Tuesday, the 13th; but he had no doubt about getting off on the 10th. On Monday, the 5th of October, I met an unusual number of officers in the streets of Rio, and learned from one or more of them that they were there for the purpose of settling up their accounts, because the admiral had given notice he would sail on Saturday, the 10th, and on reference to my correspondence with the admiral it will be perceived that I say, in substance, to him, “that inasmuch as you are prepared to sail on the 10th, let me beg you to get off on Thursday, the 8th, and thereby save two days.” At that time, bear in mind, the admiral had full knowledge of the fact that these gentlemen of the legation had been seized, and we were actually corresponding about the necessity of his moving to their relief. It appears to me, therefore, utterly impossible that, on the 5th of October, when he refused to move, his “motive” in so doing was, as he alleges *now*, to await the arrival of General McMahon; and it is equally impossible, that at that time he could have known, as he says he did, that General McMahon would arrive in the next steamer. Had it been his intention to await

the arrival of the new minister on the 20th or 21st of October, why announce to me, and to all at my table, that he would sail on Saturday, the 10th; and why give notice to that effect to the squadron, in order that the officers might settle up their accounts? These are conjectures, based on a common-sense view of the case. Now let us look at the *facts* in regard to the dates, and see if it were possible, under any circumstances whatever, that he could have possessed such knowledge, or have been controlled in his movements by such "motives."

Anterior to September, General McMahon had been appointed minister to Paraguay, and ordered to proceed to his post of duty. The State Department learning from me the difficulties that existed in regard to the Wasp, and that the Wasp had been stopped by the allies, in passing up to Asuncion, instructed General McMahon, on the 18th of August, *not* to leave the country until he received further orders. On the 2d of September, 1868, Mr. Seward addressed to General McMahon the following:

"When, on the 18th of August last, you were on the eve of your departure for Asuncion, the capital of Paraguay, as minister resident of the United States to that republic, this department, by direction of the President, requested you to remain in the United States until you should receive further instructions. The occasion of that direction was, that Rear-Admiral Davis, who commands the United States South Atlantic squadron, had just then reported that he had sent the United States ship of war Wasp up the Parana, for the purpose of bringing away your predecessor, Mr. Charles A. Washburn, and his family, from Asuncion. * * * * *

"To-day I received from Mr. Webb a dispatch, which bears date August 7, and which came from London by cable, in which dispatch he says that the Brazilian ministry has yielded to his request, and that the Wasp goes to Asuncion.

"The information thus received is deemed sufficient to warrant your proceeding at once, by the next United States steamer, to the seat of your legation."

Now, the next United States steamer was to sail September 23. That dispatch most probably did not reach General McMahon, in New York, until the 4th. By what means, then, could the admiral know of its existence at Rio, on the 5th of October? If General McMahon wrote to Captain Ramsay, by the steamer of the 5th, via England, the day after the receipt of this letter from Washington, it would not reach England before the 17th. There is no telegraph from England to Rio Janeiro, or any part of Brazil, and the first steamer from England would be that of 20th of September, from Liverpool, due in Rio in twenty-four days, she being a freight propeller. That would make its receipt in Rio fall on the 14th of October, whereas my correspondence with the admiral, in regard to this movement to Paraguay, commenced on the 5th of October, and terminated on the 10th, the very day which he had fixed for his departure—my application for his departure having been made and refused on the 5th. It appears, then, to be morally and physically impossible that any information could have been in the admiral's possession, by private letter, apprising him that General McMahon would arrive in the steamer of the 23d, and I, therefore, again give it as my firm belief that the admiral did intend to sail on the 10th, without having any idea of the arrival of McMahon, and that he remained in the harbor of Rio, not for the purpose of receiving General McMahon, as he alleges, and of whose arrival he could not have knowledge, but because, as I have said to the government, I, as minister, had urged him to expedite his departure from the 10th to the 8th. I consider the declaration now made, that he knew that McMahon was coming, a mere subterfuge, not sustained by what possibly could be the facts of the case, and palpably an after-thought. But the admiral also says that he waited for the minister to Paraguay, "who had a right to be consulted and needed to take direction, and that was the intention of the government, as he was specially instructed to act in co-operation with me, and I in co-operation with him."

Now, mark this additional specific reason assigned for delay. The committee asks the admiral: Did General McMahon, when he arrived on the 21st, bring any instructions? The admiral answers in the negative. It is true that the government did expect and did order that General McMahon and the admiral should co-operate, but *not* previously to the 5th of October. That order was not given except in a dispatch dated Washington, November 21, which would arrive at Rio only on the 20th of December, and yet the admiral says that a knowledge of that fact on the 5th day of October, forty-six days before its existence, induced him to determine not to move until General McMahon had arrived. On the 21st of November Mr. Seward writes to General McMahon as follows:

"SIR: I transmit a copy of the orders which have been issued by the Secretary of the Navy to Rear-Admiral C. H. Davis, commanding the South Atlantic squadron, occasioned by recent events in Paraguay, in connection with your predecessor and other citizens of the United States. The department had not yet received from Mr. Washburn detailed reports upon the subject. No doubt, however, you will, by personal intercourse with him and from other sources, have obtained such a knowledge of the facts as will enable you to proceed judiciously, in co-operation with Admiral Davis, for the purpose of vindicating the honor of this government and the rights of any of the citi-

zens of the United States in Paraguay who may not be able to obtain redress through the ordinary channels."

That is the dispatch dated November 21, by which alone the minister and admiral had been ordered to co-operate; and yet he tells this committee that on the 5th of October he determined to await General McMahon's arrival, which he had knowledge would be by the next steamer, because he knew he was specially instructed to co-operate with him, a fact which did not take place for some fifty days afterward. I beg the committee to bear in mind that I do not pretend to review any portion of the testimony of any of the witnesses, except that which directly conflicts with my official reports to the Department of State.

I find in the manuscript (page 48) of Admiral Davis's testimony a series of questions seeking to ascertain from the admiral whether he had had any conversation with the British admiral, in which he had made certain allegations in regard to this outrage in Paraguay, and had told the British admiral he did not place any value upon the letters and reports of Minister Washburn, because he had private reports from Commander Kirkland, which went to show that Washburn's reports were not worthy of belief, or to be received as true, all which the admiral denies. I take it for granted that question is based upon a remark that I have made and which may have come to the knowledge of the committee. The British envoy extraordinary and minister plenipotentiary to Brazil informed me that his admiral, Admiral Ramsey, of the British navy, much to his surprise, had taken ground in favor of Lopez, while he, the minister, was denouncing him to his government and the world, and to everybody with whom he came in contact, as the greatest wretch living, he, the minister, having been minister to Buenos Ayres immediately preceding his promotion to Rio. He also told me, that this difference of opinion with the admiral had produced quite a coolness between them, although the admiral responded promptly to his demand that English vessels should be detached to the river La Plata for the purpose of vindicating the diplomatic corps of the world from the outrage perpetrated upon it by Lopez through his assault upon the American legation. When I arrived in Rio last March the British minister explained to me that before Admiral Ramsey sailed with the British squadron for England, he, Ramsey, had explained the cause of his course of proceeding in regard to the Paraguayan difficulties, and stated, in apologizing for it to the British minister, that Admiral Davis waited upon him, Admiral Ramsey, and informed him that he must not receive as authentic or as of any value Washburn's letter to the British minister in Buenos Ayres because he, Admiral Davis, had a private letter from Captain Kirkland, commander of the *Wasp*, which brought down Washburn, giving a totally different version of the whole affair. Of course I do not vouch for the truth of this. I simply state the fact.

I find on manuscript page 80 of Admiral Davis's testimony the following:

"Q. Mr. Washburn desires me to ask whether General Webb, in an interview with you, did not inquire what you were going to do in regard to the *Wasp* being detained; and whether you said you had received letters from Captain Kirkland several days before, and that you had not opened them?—A. I do not recollect any such thing. I do not know what Mr. Washburn alludes to. What business had General Webb with my correspondence as long as my department was satisfied? If I received letters from Captain Kirkland, which I *knew* did not require my attention, who was to be the judge as to when they should be opened? I do not recollect making any such statement to Mr. Webb. I supposed at the time I was dealing with men who were gentlemen; but I now find they were taking *notes* of all our private conversations, and now bring them up and try to confuse me by asking me about them."

I think this answer is of a character so puerile and childish that it would not require any comment were it not that it directly conflicts with what I have reported to the government. The news that the *Wasp* had been sent back first appeared in the Brazilian papers. They boasted of the fact that the *Wasp* had been compelled to return, and published very irritating paragraphs; irritating to Americans, and insulting to our government, in regard to the fact that she had been sent back. I waited several days, in the constant expectation that Admiral Davis would address me officially upon the subject, in order that the matter might be arranged. Some four or five days after the arrival of the mail with this intelligence, and after the papers in Rio had announced and commented upon it, I saw the admiral's barge landing on the beach not far from my residence, which was on the north side of the Bay of Rio. I was at the time in a carriage near the ferry, having taken a friend down, and instantly hurried to where the barge landed—perceiving there was a lady in the boat—for the purpose of offering my carriage to the admiral and lady, who I supposed was his wife, and believing they had come over for the purpose of calling on Mrs. Webb. Upon reaching him I immediately tendered him the use of my carriage, and said I presumed he was going up to the legation. He replied no, they were going to take the same ride that he had taken with his son just before his death, several months previous; and he declined taking my carriage, because he had sent for a carriage for himself. While waiting for the arrival of his carriage I called his attention to what was said in the newspapers, and inquired

if it were true that he had sent the Wasp up for Mr. Washburn, and that she had been sent back; for up to that time I had no knowledge that the Wasp had been sent up. He replied that he had dispatched the Wasp to Asuncion for Mr. Washburn and his family, by order of our government; but that he had no knowledge of the fact that she had been sent back. I then said in substance, "Is it possible that the commander of the Wasp has not reported to you if he has been forced to return?" He said, "He may have done so. I have a large bundle of dispatches from him lying on my table, where they have been lying since the mail came in, (which was four or five days previous,) but I have never opened them." At this I expressed very great surprise, and probably exhibited some little indignation. I recapitulated as well as I could what had been said by the newspapers, and how very awkwardly we stood before the diplomatic corps of the world accredited to Brazil under these comments, and nothing done; and I reminded him that the only possible mode of getting any redress, if such an outrage had been perpetrated, was for him to address a note to me, the minister, reporting the fact, and I would then commence a negotiation with the government, insisting upon our right to send up the Wasp, and force her up the river; and I begged him, immediately upon his return to the flagship, to open and examine the dispatches from Kirkland, which must contain a full history of the affair, as he said they were evidently quite voluminous. He promised to do so, and left on his ride with Mrs. Davis. I went to my house, hunted up the various newspapers which had such abusive articles in relation to the proceeding, and carried them down to the coxswain of the admiral's barge, and directed him, upon the return of the admiral, to go on board the ship, to place those papers in the admiral's possession, I having marked various passages in which the matter had been referred to. Either that evening or early the next morning I received a *private* note from the admiral, containing not to exceed three or four lines, saying that it was true the Wasp had been sent back, and he wished I would obtain the permission of the government to allow her to go up after Mr. Washburn. The next morning, as I have already said, I went on board the flagship, and what occurred there is on record.

The admiral says:

"I supposed at the time I was dealing with men who were *gentlemen*; but now find they were taking notes of all my private conversations, and now bring them up and try to confuse me by asking me about them."

I desire the committee to judge whether, in stating as I did to the government what I have just said to the committee, it has the appearance of having made private notes for any such purpose as the admiral alleges; whether, on the contrary, it was not strictly in the line of my duty to state under what circumstances I became officially advised of the fact that the Wasp had been sent back.

This probably is as good a place as any other to state that, at the termination of the correspondence between myself, as minister of the United States, and the Brazilian government, which resulted in their withdrawing all hindrance to the Wasp going up after Mr. Washburn, the admiral addressed me a letter of congratulation upon the course that I had pursued and the results of that course.

I desire to put in as part of my testimony the following copy of an official letter to General McMahon:

"LEGATION OF THE UNITED STATES,
"Boa Viagem, October 27, 1868.

"MY DEAR GENERAL: This government will only be too well pleased to have our squadron go up the river Paraguay, and to my certain knowledge the emperor has expressed his astonishment at my inaction; little knowing, until he saw the Brazilian Times of the 23d, that I had discharged my whole duty in the premises. The way is open to the vessels of all nationalities, and most assuredly will not be closed against us, through whom the insult to all the civilized governments of the world has been offered. The only wonder of the allies, and of every intelligent person in this region, is that for three weeks past our squadron has been lying in this harbor, leaving to other naval powers the vindication of our national honor, and the attempt to release the members of our legation forcibly detained in Paraguay.

"In all probability, the time for effective action is past; but whether it is or not, and although we cannot regain the prestige so wantonly thrown away, I am well pleased to learn that our squadron is about to proceed to the river, after having postponed its time of sailing nearly three weeks to demonstrate that our minister could not expedite its movements!—a demonstration so important in the opinion of Admiral Davis, that to make it he has sacrificed the prestige of our country and the vindication of the rights of its imprisoned citizens.

"Very truly, your friend and obedient servant,

"J. WATSON WEBB.

"His Excellency General MARTIN T. McMAHON,
"U. S. Minister to Paraguay, U. S. Flag-ship *Guerriere*."

I also have in my possession in New York a letter from Mr. Bliss, addressed to me upon his leaving my employ. I ask permission to send it to the committee as a portion of my testimony, and as conclusively demonstrating that it was utterly impossible at the time I was rendering him the favors I did, and when we were parting upon such good terms, that I could have said to Commander Kirkland, quite a stranger to me, what I am charged with having said.

[The original letter forwarded by General Webb to the committee is as follows:]

“PETROPOLIS, BRAZIL,
“Friday, June 27, 1862.

“DEAR SIR: Among the inducements which were prominent in determining my acceptance of the position I now hold in your family as private secretary to yourself and tutor to your children, was a rather vague expectation of being able, in one way or another, to prosecute in South America a class of researches upon American ethnology, with which I had become in a measure identified at home. The desire to prosecute this object has continued to exist, although a more intimate knowledge of the state of affairs in Brazil has shown it to be incompatible with the most satisfactory discharge of my duties to yourself. If, therefore, circumstances should arise which may place it within your power by other arrangements to secure the discharge of my present routine of duty, you will confer a favor upon me by so doing, and by releasing me from the present engagements, in the fulfillment of which I have the honor to be,

“Very respectfully, your obedient servant,

“PORTER C. BLISS.

“General JAMES WATSON WEBB,
“*Envoy Extraordinary, &c., &c.*”

I now ask permission to read my dispatches to the Secretary of State, under dates of April 7 and April 24, 1869. They are as follows:

“LEGATION OF THE UNITED STATES,
“*Rio de Janeiro, April 7, 1869.*

“SIR: Intelligence has reached this city to-day that our minister resident to Paraguay has arrived at Asuncion, the capital of that republic. One account reads: ‘The American minister has escaped from Lopez, and is now under the protection of the Brazilian flag in Asuncion.’

“I forbear, at this time, entering at length into a history of the conduct of our minister and admiral in the waters of the La Plata; but content myself with the remark that their proceedings were as inimical as they well could be to Brazil, and that in the estimation of the diplomatic corps accredited to this court, of American citizens here and at the river, and of the people at large, our country was dishonored, our flag desecrated, and its prestige in this region temporarily destroyed by a formal and peremptory demand for the persons of two members of our legation, forcibly taken from its protection and the power of our minister by the tyrant Lopez, and then that formal demand abandoned, because Lopez impudently refused to yield to it. But this, bad as it would have been, was but the beginning of our humiliation. Not content with rejecting our demand, Lopez assailed the character of Minister Washburn, charged him, together with Bliss and Masterman, with conspiracy against his government, justified his violent seizure of them, and demanded that they should be received and held by us as *prisoners* and offenders against him; and, incredible as it may seem, our admiral and minister consented to waive their demand for the insult offered to our legation by the forcible seizure of two of its members, and in contempt of any sentiment of honor and justice, did actually receive them as prisoners on board of one of the identical vessels sent to punish and humiliate the offender, whose instruments of vengeance they thus became. They went to denounce and punish, and they left praising and rewarding.

“It was not possible for our greatest enemies to have placed us in a position so false and humiliating, and every American in this region, as well as all our friends who do not owe allegiance to, but honor the flag of our country, deeply deplore the disgrace which ignorance and folly, to use no harsher terms, have brought upon it.

“The demand for Bliss and Masterman was based upon the facts officially reported by our duly accredited minister, who was grossly insulted and barely escaped with his life. Lopez, the offender, the tyrant who had outraged our legation, and perpetrated against us an act of war, justified his conduct, assailed the veracity of our minister, and persuaded our facile representatives to ignore and condone the insult to our national honor, waive our demand for reparation, and absolutely demean ourselves by becoming his jailors. We boldly and peremptorily demanded redress, and when it was insolently refused, we humbled ourselves before the tyrant, and declared our country and its minister to have been the offenders; and in our humility and in apology for an offense, we humbly consented to receive as prisoners—as criminals and offenders against Lopez—

the two educated gentlemen, one an American the other an Englishman, whom the tyrant had actually wrested from our legation under the very eyes of our minister. And we, that is, our admiral and minister resident to Paraguay, not only received these gentlemen as prisoners under the American flag, but as prisoners and criminals they were actually brought to this port under the charge of sentinels, and prohibited all intercourse with the officers of the ship, at an expense of from fifteen to twenty thousand dollars in gold, and from here sent to Washington by steamer, also at an expense. And all for what? Why, to prove, if possible, or to make it appear, at least, that Minister Washburn's report of occurrences in Paraguay was *false*, and that Admiral Davis, on the *private* report of Lieutenant Kirkland, at variance with his public declarations, was justified in treating it with contempt, and remaining with his large squadron idle in this harbor, when patriotism, duty, self-respect, and a regard for the honor of his country alike demanded protection for our citizens and a prompt and fearless defense of our national flag so publicly insulted and set at defiance by the tyrant of the La Plata.

"The subject is too humiliating, and the disgrace too recent, to continue commentary upon it.

"The war in the Plata is *not* closed. Count d'Eu, the husband of the princess imperial, left last week for Asuncion to assume command of the Brazilian forces. He is young, enterprising, and able, and distinguished himself in the Spanish army in the late war of that nation with the Moors. I have great confidence in his success, because he is in all things the very antipodes of the old and feeble Marquis de Caxias.

"I have the honor to be, very respectfully, your obedient servant,

"J. WATSON WEBB.

"Hon. HAMILTON FISH,

"*Secretary of State of the United States.*

"P. S.—Since the receipt of the intelligence that our minister is in Asuncion, I have barely time to write this hurried dispatch, and no time to have it copied, if I would send it forward by the English steamer.

"WEBB."

"No. 101.]

"LEGATION OF THE UNITED STATES,

"*Rio de Janeiro, April 24, 1869.*

"SIR: I have this day received a communication from Mr. H. G. Worthington, our minister resident near the Argentine Republic, dated April 10, 1869, in which he says:

"I am satisfied McMahon is under a restraint imposed by that cut-throat Lopez, nor can I see there is any probability that that restraint will be soon removed. No one has heard of, or from him, for more than four months.

* * * * *

"Recent circumstances clearly establish the danger Washburn was in when in Paraguay. My firm conviction is, he would, long since, have been ranked amongst Lopez's victims, had he not been relieved when he was. He is being fully vindicated."

"McMahon's principal object in going to Paraguay and presenting his credentials to one whom his predecessor had proclaimed an outlaw, and who had perpetrated an act of war upon the United States, appears to have been to find a justification for the dilatory conduct of Admiral Davis, by demonstrating in his own person there was nothing to be feared from Lopez, and that Washburn had, as the admiral charged, acted cowardly. In so doing, he disregarded the advice I felt it my duty, under the circumstances, to give him, and became, unintentionally no doubt, a party to an act which, in my judgment, was alike disgraceful to our flag and to all concerned in it; and as a further consequence of his imprudence, he has imposed upon our government a necessity to relieve him from the embarrassment into which he has so recklessly plunged.

"Davis's original demand upon Lopez was for the immediate surrender of 'Messrs. Bliss and Masterman, the persons arrested and detained in Asuncion, while under the protection and attached to the legation of the United States.'

"This was right and proper, and until this demand had been complied with, and, as the admiral stated in his note to Lopez, until those persons had been 'restored to the authority of the United States flag,' 'as an indisputable preliminary,' 'his excellency, General McMahon, the minister of the United States to the Republic of Paraguay,' could not present his credentials.

"To this very proper demand for the persons forcibly taken from our legation in violation of our flag and of every principle of international law, Lopez replied through his military secretary: 'His excellency, the President, regrets that it is not in his power to accede to the delivering, on the terms of your excellency, the accused Bliss and Masterman to the keeping of your excellency. * * * Nevertheless, his excellency, the President of the Republic, would cheerfully consent to the delivery of the criminals, Bliss and Masterman, *provided* it were requested in a manner more in conformity with the *fact* of their being accomplices of Mr. Washburn, and the first (Bliss) intimately acquainted with his (Washburn's) intrigues in the character of conspirator and agent of the enemy, of which he is now accused in the national tribunals.'

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"After this peremptory refusal to comply with the demand of our government, unless the admiral and minister would make themselves parties to Lopez's accusation against that minister's predecessor, Mr. Washburn, his own self-respect and a decent regard for the dignity of his country would seem to have demanded that Mr. McMahon should have returned to Buenos Ayres, and, as he had been advised to do, await further instructions from your department. Incomprehensible as it may appear, however, our minister and admiral, after an interview between the admiral and Lopez, agreed that the original very proper demand for Bliss and Masterman should be withdrawn, and another letter substituted, in which all reference to their having been forcibly taken from our legation should be ignored; and, at the instigation and request of Lopez, the testimony of our minister, Washburn, be repudiated in behalf of that of Lopez.

"Accordingly, as Mr. McMahon reports to Mr. Seward in paragraph 3 of his dispatch of the 11th December, from 'On board the United States flag-ship Wasp:' 'On the following day, he (the admiral) sent the second letter as agreed upon.' And in that letter the entire character of the demand for Bliss and Masterman is changed. At Lopez's dictation, all allusion to their having been members of our legation is suppressed. Mr. Washburn, the duly accredited minister of the United States, and his testimony, are ignored, and the manly demand for redress for an insult to our flag degenerates into the following humble and humiliating *solicitation* for criminals in arrest, viz:

"My object in placing myself in personal intercourse with your excellency is to request that Messrs. Bliss and Masterman, *the individuals arrested and detained in Asunción*, on the 10th day of September last, may be delivered *into my keeping*, subject to the order of the United States.'

["Dated, December 4, 1868.]

"But even this humiliating change of position does not quite come up to the wishes and expectations of Lopez; and in consequence, he still holds on to Bliss and Masterman, demanding further concessions—a further humiliation of the stars and stripes. And, verily, he knew his men. On the 5th of December the admiral again entreats that he may be intrusted with the *safe-keeping* of these witnesses against the honor and integrity of the late United States minister, Mr. Washburn; and adds, 'but your excellency objects to their delivery under the terms of my note. I wish your excellency to believe that it is no part of my official duty, either to offer or refuse *any terms* which will affect the alleged criminal condition of the two persons in question. * * * I have to ask your excellency to embark the accused persons, Bliss and Masterman, on board of this vessel, in order that I may *keep them in security*, subject to the disposition of the government of the United States.'

"Mr. McMahon reports to Mr. Seward, 'That Lopez's military secretary sent a reply, which he incloses and thus describes': 'This communication, a copy of which is inclosed, stated that the delivery was made as an act of *courtesy* on the part of the government of Paraguay, and as a proof of its friendship for the government of the United States, and of confidence in its justice; and that he did not understand it to be in answer to a reclamation or demand.'

"Originally it was gravely and very properly determined by our minister and admiral that, 'as an indisputable preliminary step to the presentation of General McMahon to your excellency of his credential letter, I have to request that Messrs. Bliss and Masterman, the persons arrested and detained in Asunción, while under the protection and attached to the legation of the previous United States minister, be restored to the authority of the United States flag.'

"Regardless of this 'indisputable preliminary step,' Lopez not only did dispute the position assumed, but peremptorily and impudently refused to comply with or even to consider the demand, and requested an interview, in which it was agreed to surrender Bliss and Masterman, *provided* our minister and admiral would receive them as criminals, and as *his* witnesses to prove that the late minister of the United States to Paraguay was a conspirator against his government; and consequently, that he (Lopez) was justified in violating our legation by forcibly seizing as prisoners two of its members.

"Under these humiliating circumstances, and after thus compromising the honor and dignity of the United States, Bliss and Masterman were received as *prisoners* on board of our flag-ship, and as prisoners were brought to this port at an expense of not less than twenty thousand dollars, and General M. T. McMahon presented his credentials as minister resident of the United States to 'Marshal Lopez.'

"The entire proceeding is, in the estimation of all nationalities in this region, discreditable to the United States and to all concerned in it. But notwithstanding the irregularity and absolute impropriety of this most discreditable proceeding, we may not shut our eyes to the fact that, according to the belief of our minister resident in Buenos Ayres, our duly accredited minister to Paraguay is held in 'restraint by that cut-throat Lopez.' This may not be, and hence I deemed it proper to review the circumstances under which such an embarrassing state of affairs could have arisen.

"It required no little effort to extricate Mr. Washburn from his position in Paraguay, the danger of which the admiral and Minister McMahon have so pertinaciously denied. But our minister to the Argentine Republic, in his communication, from which I have

extracted, is of opinion that the position of Mr. McMahon is at this time equally precarious. Of course he must be relieved; but how is his release to be effected?

"Very respectfully, your obedient servant,

"J. WATSON WEBB.

"Hon. HAMILTON FISH,
"Secretary of State.

"N. B.—This dispatch was written at too late an hour to be engrossed; therefore, I am compelled to send this, the original manuscript.

"WEBB."

I would call the attention of the committee to a declaration made by Captain Ramsay when under examination. He says:

"Mr. Bliss and Mr. Masterman were demanded from President Lopez unconditionally. Admiral Davis expressly said that it was not his place either to discuss or to define his position; that he simply came there to demand that these men should be released, and that the whole case should *then be referred to the government at Washington.*"

You will perceive that Captain Ramsay swears that the admiral stated that he simply came there to demand that these men should be released, and that the whole case should then be referred to the government at Washington. According to that testimony, if true, Admiral Davis, and not Lopez, is the originator of the idea that these men were to be received as the witnesses of Lopez to be sent to Washington. How much truth there is in the declaration it is not for me to say.

By Mr. WILKINSON:

Q. It is somewhere stated in this testimony that the annual expenses of a first-class war steamer, or "admiral's yachts," as they are called, are equal to the annual expense of the whole diplomatic corps of the country. Have you made such a statement?—A. I so stated in a dispatch, which was suppressed by the late Secretary of State, upon the plea that to publish that in reply to a call from Congress would be to assail the Navy Department, and that it was no part of his business to assail a co-ordinate branch of the government. I remonstrated with him, and insisted that the right of the Secretary of State and of the President, under a call from Congress, to suppress such matter as, in their judgment, would be injurious to the public, if not in all cases, certainly in most cases, was in my judgment intended to cover only matter relating to foreign governments, the exposure of which might bring us into unpleasant collision with those governments, or which might tend to injure or retard in some way negotiations pending between this government and some other. I told him I did not believe it was ever intended that the President or Secretary should, under that reservation, withhold from Congress anything relating to matters within the United States, between its citizens, or between the government and its employes, the publication of which could not by possibility be injurious to the public interests. That therefore he was bound to put in that portion of the dispatch, because I had put it into the dispatch for the purpose of calling the attention of Congress to the fact, and to let them by investigation ascertain whether it was true or not; and that although I believed it to be true, the data upon which I was acting was not official. I believe it to be for the interest of the country that the matter should be specially inquired into by Congress, because, as I said to him, it is really a great anomaly in our system. The Secretary of the Navy may put into commission one or twenty first-rates, each one of which will annually cost as much or more than the entire diplomatic corps of the country, while the Secretary of State may not increase the contingent expenses of a mission five hundred or a thousand dollars without being liable to censure. I believe that on investigation the declaration will be found to be very nearly accurate. It was based upon such information as I could command at that distance from home, and without reference to official documents. The statement was fortified, in my judgment, by another fact. At least a dozen times in the course of my editorial career, when gentlemen in Congress had been assailing some small appropriation for our Military Academy at West Point, I made it my duty to state the fact, based upon what I then knew to be accurate information, that a ship of the line, a seventy-four under our old naval system, in commission, cost the government each and every year more money than the institution at West Point had evercost in any one year, and the Secretary of the Navy could put as many in commission as he pleased, if we had them. That statement I repeatedly put before the public, and it was based upon accurate information.

Q. About what did you estimate the expense of one of these vessels?—A. Somewhere between three and four hundred thousand dollars; and I state here, that while we had many of these first-rates in commission, each of which probably cost as much as the entire diplomatic corps of the United States, I had no doubt the first-rate sent to the Mediterranean cost during the year very much more than the whole diplomatic corps of the United States, including its contingencies.

By Mr. ORIH, (at the suggestion of Mr. Washburn:)

Q. What service was rendered by the South Atlantic squadron from the close of the war up to the time your commission terminated?—A. My answer to that question is an extract from a letter addressed by me to Rear-Admiral Davis, dated at the legation of the United States, October 9, 1869, as follows:

"Permit me to illustrate my meaning. For more than three years past we have had on this coast a South Atlantic squadron, consisting of from six to eight steamers in number, and sustained certainly at a cost of not less than \$5,000,000; and yet, during that period, the only national services required of it have been the firing of a salute to the Brazilian flag in Bahia as an *amende honorable*, promised by me, the United States envoy extraordinary, in consequence of our having violated Brazilian neutrality in cutting out and capturing in Brazilian waters the pirate Florida. That salute should have been fired by the flag-ship, because, when a great nation resolves to make an *amende honorable*, self-respect demands that such *amende* shall be made in a magnanimous and manly manner. But your predecessor, having denounced any such concession to the wounded honor of Brazil, and actuated by anything but a commendable feeling toward the civil service of our country, and incapable of appreciating the chivalry of the act, sent one of the smallest gunboats in our navy to perform this duty, while he, in the flag-ship, remained in this harbor; and when the duty had been discharged in a manner so disreputable to us and so offensive to Brazil, he immediately sailed for Bahia to demonstrate, as it were, the contemptuous manner in which the matter had been disposed of. One high in authority here, very justly remarked, 'It was an act of grace performed most ungraciously;' and it became my duty to explain that no slight was intended by our government, and that it was our misfortune to have had in command a naval officer (Godon) who could not understand, much less appreciate, the delicate duty with the performance of which he was intrusted, and who did not perceive that it was his own country, and not Brazil, that was slighted by his proceeding.

"The salute referred to was fired by the Nipsic, commanded, at that time, by one of the junior lieutenant commanders in service.

"The next national service rendered by the squadron was by the gunboat Shamokin, which was permitted to take Mr. Washburn, our minister to Paraguay, through the enemy's lines, because I gave notice to this government that if they refused such permission I should demand my passports.

"And the third occasion upon which our squadron has rendered a national service, was when you sent the Wasp to Asuncion after Mr. Washburn; and after a detention of seven weeks at the allied headquarters, permission to pass was peremptorily refused by the Marquis de Caxias. You, at my request, reported the facts to me; and I, contrary to your judgment, insisted upon our right to send her to Asuncion, and demanded that all hindrance to her passing up should cease. Twice, in formal notes from the foreign office, was the demand rejected, and the conduct of the Marquis de Caxias approved; I then again, in opposition to the advice of cautious friends, assumed the responsibility of informing this government that, on a certain day, either my passports or an order for the Wasp's going up to Asuncion must be sent me.

"Thereupon all opposition to the Wasp's passing the blockading lines of the allies was withdrawn. I communicated the facts to you, and requested that the same vessel, commanded by the same intelligent gentleman, might be sent up to Paraguay. You promptly complied with my request; and, thank God, she not only arrived safely at her destination, but, most providentially, just in time to save the lives of our minister and family.

"Now, you know that the Nipsic could have rendered all the national services performed for our squadron by the Shamokin and Wasp; and at the same time have made an annual visit to the coast of Africa. Let us suppose, then, that the Nipsic, commanded by a lieutenant commander, had been the only United States vessel of war on the station, and that upon receiving Mr. Washburn's report of the gross outrage perpetrated in Paraguay against the honor of our country and the rights and liberties of our people, I had addressed him the identical letter I had addressed to you, are you prepared to say that such lieutenant in command would have been justified in sending me in response such an exceedingly offensive note as that to which I am replying? You will not pretend that any immunity in the premises attaches to you which would not equally apply to him. The rights and immunities, whatever they may be, attach to the position—to the officer in command, and have no relation to his rank."

By Mr. SWANN:

Q. Was there a reply to this letter by Admiral Davis?—A. Yes, I received in reply to my letter, the following:

"UNITED STATES FLAG-SHIP GUERRIERE,
"Rio de Janeiro, October 13, 1868.

"SIR: I received your letter dated the 9th instant on the evening of Saturday, the 10th instant.

"Its style and language, and the character of its imputations, forbid the continuance, on my part, of this correspondence.

"Very respectfully, your obedient servant,

"C. H. DAVIS, *Rear-Admiral,*
"*Commanding South Atlantic Squadron.*

"His Excellency J. WATSON WEBB,

"*Envoy Extraordinary and Minister Plenipotentiary of the United States,*
"*Boa Viagem.*"

To which I responded as follows:

"LEGATION OF THE UNITED STATES,
"*Boa Viagem, October 14, 1868.*

"SIR: I am in the receipt of your letter, in which you say:

"SIR: I received your letter dated the 9th instant on the evening of Saturday, the 10th instant.

"Its style and language, and the character of its imputations, forbid the continuance, on my part, of this correspondence."

"I immediately read, with great care, the notes which have passed between us, with an avowed determination, if I discovered in aught I have written any imputation whatever upon your character or conduct, promptly to withdraw and apologize for it. The result of such careful examination of our correspondence is a conviction that the only imputations contained in it are to be found in your unwarranted and uncalled-for note of the 6th instant. A statement of facts, however disagreeable, cannot be considered 'imputations.'

"I am sorry my 'style' does not please you. Looking only to the discharge of a public duty, I did not consider it incumbent upon me to aim at any peculiarity of 'style' in order to render grave official truths acceptable to a fastidious taste; and I employed the simple language of earnest conviction as eminently suited to the occasion.

"Very respectfully, your obedient servant,

"J. WATSON WEBB.

"Rear-Admiral CHARLES H. DAVIS,

"*Commanding South Atlantic Squadron.*"

Q. To this letter there was no reply?—A. None whatever. I would here call attention to another paragraph in my letter to Admiral Davis:

"I will only add, in conclusion, that the question of the relative duties and respective rights of United States ministers and naval officers in command, which, for some purpose that I cannot fathom, you have thought proper to raise, should, and I trust will, be speedily settled by Congress. Whether in your favor or mine, does not matter. We are simply the instruments whose differences in a far-off land, in regard to what action is demanded by our naval forces on this station in vindication of the nation's honor, the rights of its officials, and the lives of its citizens, must and will call forth congressional legislation too long delayed. To secure such a result I shall cause this correspondence to be called for at the next session of Congress; and to convince you that, in the performance of my whole duty in this emergency, I do not intend to permit an official difference of opinion to degenerate into a personal controversy, I inclose herewith a copy of my dispatch to the Department of State, written yesterday, when you were penning your extraordinary note to me, and which went forward by the steamer to Southampton this morning. Its spirit will be found somewhat different from that which guided your pen, and invited a personal controversy. To that spirit I shall adhere; and I now feel it my duty to reiterate my requisition upon you, promptly and properly, to employ the large naval force under your command in the vindication of our national honor, the protection of the diplomatic rights of our country, and the attempt, at least, to save the lives of our outraged officials."

I will state to the committee that I did, for the purpose here named, ask a friend in Congress to call for this correspondence, and that my principal object in so doing was to induce congressional legislation, with a view of defining the relative positions and duties of the two arms of the service. And I hope and trust that, whatever may be the report of this committee upon other matters with which I certainly have no interest beyond seeing justice done, it will be considered by the committee that perhaps the greatest possible good they can render to the country is to convince Congress that the honor of the country, as well as the interests of both services, and the respectability of the nation, all require that there should be legislation—I don't care of what kind—so definite and positive, that these occurrences in distant parts of the world, which bring dishonor upon our country and disgrace upon our flag, may never again arise. And in this connection I will state other occurrences during my mission.

The better class of officers, the more intellectual men of the navy, do not advocate the absurd views of Godon and Davis in regard to their being clothed with diplomatic powers. Such men as Maynard Rogers, Commodore Glisson, and others of their stamp,

do not advocate such doctrines. Maynard Rogers is considered the Chevalier Bayard of the navy, and to show how totally different are his views and those of his class of intelligent officers, I will state that when the pirates were on the coast of Brazil, and our government was too much in want of our navy at home to furnish the necessary force to keep them off, I was asked, "Why does not your government send here a force sufficient to drive these fellows away? Why does it not do as England and France do, keep a force here sufficient to protect your commerce?" I told them that was all very well in time of peace; but that when we were struggling for national existence, fighting the battle for the Union, when we required all the force we could possibly raise at home, to put down the rebellion, and relied upon friendly nations preserving their neutrality, we had nothing to send abroad. Still I would agree, although I had only one vessel on the coast, to make arrangements for that naval vessel to visit every Brazilian port at least once in three months. When Commodore Glisson, in command of the *Mohican*, was on the South Atlantic station, on one occasion he had received orders to return home with the ship. It so happened that he was going to take home with him my two oldest boys to school, and I was very anxious to have them go home, but I said to him: "Commodore, you must not go home; you must go to the river Plata; I have such information as leads me to believe that the *Alabama* is down there." "Very well," said he, "I recognize my duty to do whatever the minister may require, although I have orders to return home without delay. Put it in writing, and I will go to the river Plata." And he did go. Subsequently another vessel arrived and he went home. Captain Maynard Rogers arrived with a government vessel, bound for China, under very specific orders to go on without delay. He reported at the legation, as the regulations require, and was very anxious to go on immediately. I said: "You cannot leave; I am under such and such arrangements with this government; this coast cannot be left without a steamer; I must require you, therefore, to remain, notwithstanding the orders of the Secretary of the Navy, until some other vessel comes along." "Very well," said he, "I recognize your right. Address me a letter, and I will stay here until you tell me I can go." Captain Rogers remained there upon my recognition about a month, when I received a letter from him that, learning that Captain Walke, with another United States steamer, was at Pernambuco, on his way to Rio, he, Captain Rogers, would proceed on his way. Captain Walke came up and reported. He was on his way to the Pacific, with orders to go there as soon as possible. I said: "You cannot go; I must have a vessel here on this coast." Walke at once recognized my right and said: "Put your requisition in writing and I will remain."

Now, on the other hand, Captain Collins, in command of the *Wachusett*, came on the coast. It was a matter of very great importance that I, the minister, should have a vessel on the coast which I could apply to in the event of an emergency, and I sent a circular to all the consuls directing that whenever a United States vessel was about to leave, to inquire of the commander where he was going, and to show him the circular, in order that I might be advised of his destination, and that I could reach him by telegraph, or in some way, when wanted. The consul at Bahia reported that Captain Collins had just sailed; and that upon his showing him my circular, and requesting to know where he was going, in order that he might report to me, he peremptorily refused to give any information upon the subject, and said I was not entitled to it. I reported his conduct to the Secretary of State, and, I presume, he reported it to the Secretary of the Navy; at all events, I received a copy of a letter from the Secretary of the Navy, addressed to Captain Collins, justifying him in refusing to give that information for the guidance of the legation. I stated to Admiral Godon, on his arrival in August, 1865, that it would be necessary shortly, in compliance with my arrangements with the Brazilian government, in the settlement of the Florida affair, that he should fire a salute to the Brazilian flag in the port of Bahia. He told me that he would not do so unless specially instructed by the Secretary of the Navy; and added that, in his judgment, Brazil was not entitled to such a salute. Of course, that at once put me in a false position with regard to my negotiations; and therefore I had no resource but to write to the government. The salute was ordered, and a whole year elapsed before it was fired. Then, as you know, in the case of the Paraguayan outrage, I called upon Admiral Davis to expedite his departure two days, and sail on the 8th instead of the 10th, as he had announced to be his intention, and he was so offended, and apparently so outraged at the idea of a minister presuming to influence the destination of the squadron, that instead of expediting his departure two days, and sailing on the 8th instead of the 10th, he actually remained until the 29th; and now pretends he was waiting for General McMahon, of whose movements at that time he was profoundly ignorant.

I mention these facts with a view of asking this committee that they will report to Congress that there is a necessity for legislation on this subject. As to the character of the legislation it matters very little to me, taking it for granted that after once entering upon an investigation, Congress will arrive at a sound conclusion in respect to the action that may be necessary.

By Mr. SWANN:

Q. How long have you been acquainted, either officially or otherwise, with Admiral Godon and Admiral Davis?—A. I first knew Admiral Godon upon his reporting to me as acting admiral of the South Atlantic squadron in August, 1865. I never saw him before. I first knew Admiral Davis on his reporting to me, on his arrival on the Brazilian station, in September, 1867.

Q. Are you familiar with the official records of these two officers since they have been connected with the navy?—A. My knowledge of Admiral Godon's record is based upon his report to me of what he did during the war. He repeatedly gave me a history of the battle of Port Royal. On one occasion I think he kept me some three hours after my wife had retired, fighting over that battle, in which he demonstrated, beyond all possible cavil, that he alone fought the battle, and won it by refusing to obey his superior's orders during the fight, and pointed out how badly he had been treated by Admiral Du Pont, and how little Du Pont and the country appreciated his services. I have no other information in regard to his record except that derived from himself. I repeated to several officers of both squadrons Admiral Godon's history of that event. One of them, of rank, informed me, in reply, that so far from its being true, the officers of Dupont's staff, of which Davis was chief, in connection with several other officers, had deemed it their duty to say to Admiral Du Pont, that, in their judgment, Admiral Godon should be reported for gross disobedience of orders if not cowardice in that fight; and, in support of the position they assumed, they instanced the case of Perry and Elliott, pointing out to Du Pont that if he did not report Godon, but attempted to screen him, ultimately Godon might get the position toward Du Pont that Elliott had occupied towards Perry, who had overlooked what was alleged to be Elliott's cowardice on Lake Erie. Du Pont, however, as I was told, declined to report Godon for cowardice, but, as Godon informed me, treated him rudely and unjustly. I regard Admiral Davis as a gentlemanly, scientific, and valuable officer in the position which he so long occupied in connection with the Observatory and Nautical Almanac. In all my intercourse with him up to the time I made the unfortunate application to him to proceed to the La Plata, I have rarely met with any person whose social intercourse gave me more pleasure, and I so reported in a dispatch to the government of the United States. Up to the time of the receipt of his answer to my first letter, I think there were not half a dozen gentlemen in the navy (and I know a great many of them) for whom I entertained more respect and cordial esteem. I looked upon him as an accomplished gentleman and a credit to the navy, without knowing anything about his naval qualifications, but respecting his scientific acquirements. And I believe I may add that his record, in a scientific point of view, is all that I have stated. I have since discovered that his record as a man and an officer is very different from what I supposed it to be. That he is not considered reliable, but in the navy has a reputation for cunning and intrigue.

Q. You say that it was a current rumor, while in command of the South Atlantic squadron, that Admiral Godon had a softening of the brain; that you did not credit the rumor at that time, but now feel it only charitable to believe that there was some foundation in that rumor. I desire to know whether or not this is to be taken in its literal sense, or whether it was designed by you merely as an illustration of the estimate you held of his intellectual status?—A. I desired it to be taken strictly in its literal sense. That such a rumor did exist is absolutely certain; that I did not, at the time, believe it, is equally so; but now I must either believe that rumor, or I must believe that Admiral Godon has deliberately and maliciously perjured himself before this committee.

Q. You speak of this rumor; can you refer to any persons connected with the squadron who gave you that information?—A. No; but I will say that I have understood—I do not know from whom—that a similar rumor existed in the United States before or about the time that he sailed for South America.

Q. Is it not usual for naval officers to receive specific instructions in conducting their relations with foreign governments when proceeding to the discharge of a delicate duty, at all times; do you know what instructions were given to Admiral Godon?—A. It is not usual, never has been usual, and I presume never will be usual, to give any naval officer instructions in regard to any intercourse with a foreign government, when the government of the United States has accredited to that government a representative of its own, a member of the diplomatic corps. The navy are, under no circumstances, accredited to, nor can they have any intercourse with, any foreign government, except in the absence of a representative of their own government. Their presentation at court is entirely an act of courtesy, depending solely upon the volition of the minister, and they have no right whatever to demand it under any circumstances.

Q. In what relation do these naval officers stand to the diplomatic agents of the government; are they bound to carry out such instructions as they may have received, or to use a wise discretion on their own responsibility in case of disagreement with such diplomatic agents?—A. I think it has always been a well-settled principle with the Department of State, and with the government, that while the diplomatic agent shall not have the right to order the commandant of the naval forces to do this or to

do that in his discretion, yet it is the bounden duty of such commandant always to comply with any reasonable requisition which the minister may make upon him that is not palpably and manifestly wrong, the minister being responsible to the government for such requisition. That a commandant thus situated may not have the right, in extreme cases, to disregard the views of the minister and assume the responsibility of refusing to act, I do not pretend to deny. I can imagine a case. For instance, if the minister were to order, without any cause, the commandant of an American fleet to batter down the custom-house at Rio, it would be perfectly right for the commandant to say "I will not obey you; I take the responsibility;" but in all ordinary cases there can be no question but that it would be his duty to comply with the request of the minister, where the question involves ultimate results to the country, and leave the minister responsible for his conduct. And this, I think, is illustrated by the instance I have presented of naval officers, touching Rio Janeiro under orders to the China sea and the Pacific, but stopping for such period as they were required, leaving the minister responsible for their detention.

(At the instance of Mr. Washburn.)

Q. Was a naval officer ever censured for obeying the minister?—A. Never, to my knowledge; and probably never would be censured, except under an extreme case of imprudence.

By Mr. WILKINSON:

Q. You state that Captain Rogers delayed, at your request, in opposition to his positive instructions?—A. He did, and so did Commodore Glisson, and so did Captain Walke; but they all recognized their duty to obey my requisition and remained. The only parties who ever refused to do as they were requested by me were Captain Collins, Admiral Godon, and Admiral Davis.

Q. Were those who did obey censured for it?—A. Certainly not.

By Mr. SWANN:

Q. Is it your opinion that Admiral Godon was so much prejudiced against Mr. Washburn and yourself from any cause, or was incapacitated from any cause, as not to be able to conform to and properly carry out the instructions of his government?—A. He was abundantly able to do so if he had been disposed. It is not for me to assign motives for his conduct. I have no doubt that Admiral Godon was in position to carry out the requisitions made on him by Mr. Washburn. He probably had two objects in refusing. One may have been an early dislike to Mr. Washburn; but probably the overruling motive was to exalt the authority and dignity of the navy by claiming for officers in command diplomatic functions.

Q. Admiral Godon was of opinion, as appears in the testimony, that to force the allied lines would amount to a *casus belli*. Suppose he had forced these lines and provoked a war, would the responsibility have fallen upon the admiral, or in case of advice from other sources—from the minister for instance—upon him?—A. I will state, first, if Admiral Godon had understood international law as well as it is understood by men posted up in the matter—as William H. Seward understood it—he would have known that it was not possible, by forcing the blockade of the Paraguay in 1865-'66, to involve us in war; because it is perfectly well understood, that where a government has established diplomatic intercourse with another government, a belligerent cannot cut off all communication between such government and its diplomatic representative. As I stated to the government of Brazil, if there were five routes to Paraguay, they would have a perfect right to close four of them; but that our diplomatic intercourse with Paraguay having been established before the war, they could not interfere with our right to communicate with our minister, but must leave one route open to us. That being the case, it was optional with us to enforce that right; and Admiral Godon ought to have known that in so doing, under the peculiar circumstances of the case, it would not be a *casus belli*. In regard to so much of a previous question as related to any prejudice which Admiral Godon might have had toward me, I desire to say that I never, directly, had the slightest knowledge of any such prejudice until he behaved improperly, in neglecting to furnish a boat which I wanted, for the purpose of making an official call upon the British admiral. But, at the same time, I had a thorough conviction that he never forgave me for what I said to him in my interview with General Asboth, at which he was present, by his own invitation; or, rather, at which he intruded himself. I can mention another instance, which now occurs to me, that I knew operated to prejudice him against me. The Kansas, Captain Erben, arrived at Rio when the squadron was down at the Plata. A bad fellow on board had attempted to murder one of the crew, and escaped on shore. The captain sent Lieutenant Elliot, a young gentleman who had just graduated at Annapolis, to find this man and bring him on board; and when he was leaving the vessel's side, he asked the lieutenant if he had a pistol with him. The young man, I think, stated he had; at all events, procured one and took it with him. The deserter was apprehended, and attempted to make his escape, and ran away from the lieutenant, about three or four o'clock in the morning, when taking him to the boat. The lieutenant drew his pistol

and fired at him, believing it was his right to do so, as well he might have done, from the fact that his commanding officer asked him if he had a pistol. He shot the man through the back, for which he was arrested and placed in prison. The case was not reported to me as soon as it should have been, and, in consequence, when I arrived at the foreign office, they stipulated that they would discharge the officer, provided no report had been made to the police that the life of the sailor wounded was in danger. They accordingly sent down to the police, or, rather, the director general of the office went himself, and on his return said: "You are too late. If you had come here sooner, it would have been before any report had been made, and we would gladly have discharged the lieutenant; but the physician reports that the wounded man will die, and, in consequence, Lieutenant Elliot must be tried. We cannot interfere with the civil process, but we can pledge ourselves to you, as we do, that if on trial he is convicted and sentenced, as he probably will be, the Emperor will immediately pardon him." Captain Erben reported to me, that he had orders to proceed to the river La Plata and report to the admiral. I told him, "You cannot go. Your testimony is absolutely necessary in the trial of Lieutenant Elliot, and you must remain here until such time as an examination can take place;" and I added that I would take the responsibility of his remaining. When Admiral Godon came to Rio, he found the *Kansas* lying there, and, as I was informed, telegraphed Captain Erben to come on board the flagship, which Captain Erben did. The admiral inquired why he did not come to the Plata and report himself to him, the admiral. Captain Erben replied, that he was detained by me; at which Godon got exceedingly angry, and, among other things, inquired whether the minister commanded the squadron, or whether he was the commanding officer, and ordered Erben to get ready for sea immediately. Erben thereupon addressed a note to me, stating the fact that he had been ordered to sea, and what had passed between him and Godon. I wrote him, in reply, that he might say to the admiral that I had detained him, and that he must wait to give his testimony; that he must not presume to leave the harbor without first giving his testimony at the police office; that Admiral Godon was behaving very badly in visiting on him my sins; and that he was at liberty to show that note to the admiral. The admiral never spoke to me on the subject. He did send Erben to sea, and under very peculiar circumstances, but he never mentioned the subject to me.

Again, during the admiral's absence a Russian frigate arrived, having on board eighty or a hundred midshipmen, being a school-of-practice-ship. The Russian admiral came up to Petropolis, where most of the diplomatic corps reside, and we all entertained him. It was the custom of certain members of the diplomatic corps to have receptions once a week, and the Russian minister was of the number. One evening in January, upon reaching the Russian minister's, he said to me and other ministers: "I have very bad news; I learn that our frigate is lost; that she has gone down near the Grand Isle, where she went to practice." At that moment our ship, the *Juniata*, was lying in the harbor of Rio, under orders to go home on the arrival of her relief, which was hourly expected, and it occurred to me instantly that this was an occasion to make a good impression by a very kind act to the Russian government. I did not believe at the time that the frigate was lost, as false rumors are constantly flying about, but I said to him that if that was the fact he would find himself with eighty or a hundred young gentlemen on his hands at the sickly season of the year; and as Russia and the United States were always good friends, and as we had then a roomy vessel of war lying in the harbor, I was very happy to place her at his disposal; and told him when these boys came up to put them on board the *Juniata*, to take possession of her, send her where he pleased, and keep her as long as was necessary for the use of his government. The British minister, (now the British minister here,) was annoyed, as I knew he would be, at his inability to make a similar offer. He said: "I am sorry I cannot do as handsome a thing. The only vessel I have here is an iron-clad, on her way to the Pacific, and she is not fitted for the service required." On my return home, at twelve at night, I wrote an official letter to the Russian minister, placing the *Juniata* at his disposal, which I had delivered at daylight, assigning to my wife the reason that I had no idea the vessel was lost, and that I did not want to miss the opportunity of paying Russia a compliment. The next morning, when we were at breakfast, in came the Russian minister beaming with joy. He announced that he had good news; that the frigate was not lost. I said to him that he would recollect that I had made the offer in writing, and that he must report it to his government, which he did, and in time along came a communication from Prince Gortchakoff, directing the Russian minister to read the letter to me which he was directed to write by order of the Emperor; stating, also, that a similar letter had been sent to the government here, thanking our government for its good offices made through its minister in Rio. Godon, however, was, I have reason to believe, very much annoyed, but he never said a word, directly or indirectly, to me on the subject. It does not belong to his nature to come forward manfully and say: "Why are you interfering with my fleet?" or, "Why have you done this or that?" I gave him, perhaps, one other cause of offense. He and his staff called upon Mrs. Webb and myself, as we were taking a carriage to go to

Petropolis. I think this was the first time I had met him since he came up from the river. I asked him if it was true, as had been reported, that he had refused to send General Asboth up the Paraguay in order to have an interview with Mr. Washburn. He said yes, he had refused. I asked him what right he had to refuse a minister a passage in a public vessel, when that minister believed it was his duty to go up the river. He said he did not believe General Asboth had permission to leave his legation. I asked him if he presumed to put that question to General Asboth. He said yes; he asked him if he had permission to leave his legation, and General Asboth replied that he had not. I remarked that General Asboth was a great fool; that if such a question had been put to me, I would have replied that it was none of his business, and a very impertinent question. To which he responded: "But you are not General Asboth." These various matters undoubtedly created a prejudice, but it never exhibited itself until, finally, when dining with me, in company with the diplomatic corps, I asked him to have a boat placed at my disposal, to make an official visit to the British squadron, to return the call of the admiral. At the appointed time I was ready, but there was no boat. It was a dark morning, but did not rain, and I thereupon took the first boat I found with an American flag—a small boat which had come from one of our ships, commanded, I think, by Captain Wells. In her I made my visit, and, as etiquette requires, when the minister visits foreign vessels and receives a salute, if there be in the harbor any vessel belonging to that nationality, it becomes its duty to return the salute; I knew perfectly well it would annoy Admiral Godon when the salute was fired, knowing that he must answer it. At the proper time the salute was fired, and immediately afterward the salute was returned from the flag-ship. I was so much annoyed at the failure of Admiral Godon to send the barge for me that, on returning, instead of going on board the *Guerriere*, I went from the British flag-ship direct to the landing, and home. Admiral Davis arrived a day or two afterward, and just preceding court-day; and before I met with him I sent a note on board stating I was going to court on such an occasion, and would be happy to take him with me. Officers are always desirous of going to court. When the time arrived Admiral Davis presented himself in his barge, and also Admiral Godon in his barge. After court was over, Admiral Davis said he would go and pay his respects to Mrs. Webb. Admiral Godon also said he would like to go. I then said I would take the two admirals in my carriage, and the other gentlemen could order carriages from the stand, and we would drive up together some three miles. While we were waiting for these gentlemen to get carriages, Godon came and stood alongside of me, and remarked: "I did not expect you would visit the British admiral the other day." I inquired, "Why not?" He replied that it was a very rainy morning. I said that it did not rain; that it had rained slightly toward Bota-fogo, but that I called Mrs. Webb's attention to the fact that the pavement was not wet at the landing in town. He replied: "We are not in the habit of sending out boats in that kind of weather; and I hope you will think nothing about it." I said: "There is the end of it, Godon; don't say another word about it. I consider that as quite a sufficient apology." He then inquired: "Why did you not come on board my ship, after your visit to the British squadron?" I said: "Oh, nonsense; don't bother me with a thing of that kind. The carriages are ready; jump in, and let us go off." "No," said he, "I want a specific answer, why you did not come on board my ship instead of going ashore." I then said to him: "If you insist upon an answer, you shall have it. You know that you behaved badly in not sending the barge, and I intended to rebuke you in the presence of the fleet, knowing that everybody in the squadron would understand it." He replied: "There is the end of it. We can have no more intercourse. I will not go up in the carriage with you." This was on the palace steps. I remonstrated, and said: "You have made an explanation which I have accepted. Let this all pass, and jump into the carriage." "No, sir," he replied, "I will have nothing more to do with you." It occurred to me that this conversation, being private, with some twenty gentlemen composing the two staffs near by, there would be misrepresentation; and I thereupon turned to them and said: "Gentlemen, you notice the admiral and myself have been having a conversation here. I wish to state to you precisely what has passed between us." I then repeated the entire conversation, and added: "I now say to you, gentlemen, as I have said to him, I did not go on board his vessel, because I intended to rebuke him as severely as I could for having treated his minister with disrespect. Now, gentlemen, we will go and see Mrs. Webb." That was the last interview I had with Admiral Godon, and the only quarrel I ever had with him.

(At the instance of Mr. Washburn.)

Q. Had you reason to believe that Admiral Godon had any prejudice or dislike to Mr. Washburn, until after he sent the gunboat for him?—A. None whatever; nor do I now believe that he ever had any ground for such prejudice.

WASHINGTON, D. C., November 15, 1869.

Examination of JAMES WATSON WEBB continued.

By Mr. ORTH:

Question. General McMahon, in his testimony, states among other reasons why Brazil engaged in the war with Paraguay, her desire to control the La Plata River by the conquest of Paraguay, and her hostility against any republic situated on the borders of her slaveholding empire, Paraguay being a republic in name, with an elective president. As you were a resident of Brazil for a period of eight years, will you please state your impressions as to the purpose of Brazil in prosecuting this war?—Answer. In the closing part of your question you say Brazil would be hostile to any republic on her borders. That Brazil would naturally be unwilling to have a republic on her border I have no doubt; but if General McMahon intends to convey by that remark that she would, therefore, attempt in any way to conquer the republics now situated on her borders, or to extend her jurisdiction over any portion of these republics, he is entirely mistaken. But I do not consider the fact of his being mistaken on that point as very material, because, really, General McMahon has had no opportunity to ascertain the state of public opinion in Brazil. I think when he passed through Rio he staid there about three days, and I imagine he could say to this committee that he had no communication whatever with any Brazilian. He then went to the river Plate, and there found the allies of Brazil on both sides of the river, and shortly after went to Paraguay. I do not see how, therefore, he had any opportunity to learn the purposes or feelings of the Brazilian government, and of the allies. He remained in Paraguay until he returned to the United States by the way of London. It does appear to me, therefore, that any impressions, honestly entertained by General McMahon, must have been derived from Lopez, or persons about Lopez, in Paraguay; and are in fact Lopez's opinions and not General McMahon's. I happen to know, and can speak very decidedly, that there is no purpose of conquest whatever, nor has there been any such purpose on the part of the Brazilian government, from the time of the commencement of its war with Uruguay. When that war was commenced I was sounded, unofficially, by an official, to know whether in the event of its being brought to a successful close there would be any objection on the part of the United States to Brazil's holding a portion of the territory of Uruguay. I stated at once, without any authority, but based upon convictions of what would be the policy of our country, that under no conceivable circumstances would the government of the United States permit the government of Brazil, a slaveholding nation, to annex free soil to her territory; that while we would not attempt to interfere with the slaveholding institution of that country, yet any attempt to conquer either of the republics on her borders, for the purpose of adding them to her own territory, would unquestionably be resisted by this government, and would not be permitted. Subsequently, when the war was brought to a close with Uruguay, in an interview with the Emperor, I said to him, "Your majesty, there is here a very small strip a few miles, in extent north of the river, which appears to have been the source of all this difficulty. Uruguay has jurisdiction over it, but it is settled entirely by Brazilians; there are no people belonging to Uruguay there. And as in the interest of peace a necessity seems to exist for the acquisition of this small strip of territory, I think the government of the United States would not under the circumstances deem it any cause of offense if you should retain jurisdiction over it." He said, "No; when I was compelled to go into this war, I proclaimed distinctly that under no circumstances would I add one square foot to my dominions. I have closed the war, and shall carry out thoroughly to the letter that disclaimer." I may, therefore, say distinctly, as I do, that I am thoroughly satisfied that neither the government nor people of Brazil have in view now, whatever purpose they may have had thirty or forty years ago, any intention to extend their territory by conquest from the neighboring republics. I think it is my duty, after eight years' residence in Brazil, to speak thus emphatically with regard to her policy.

Q. (At the instance of General McMahon.) How do you reconcile this statement with the proclamation of Paranhos, after the occupation of Asuncion, confiscating the property of all Paraguayans?—A. In the first place Paranhos is the most unscrupulous public man in Brazil; secondly, I do not know of any such proclamation; and thirdly, if I did I should not consider it any part of my duty to reconcile my opinions in regard to the policy of Brazil with Paranhos's conduct in Paraguay.

Additional testimony of Martin T. McMahon.

WASHINGTON, November 15, 1869.

MARTIN T. MCMAHON, having been recalled, testified as follows:

Mr. Washburn has just read a statement of Alonzo Taylor. Let me say, in connection with it, that the same Alonzo Taylor told me in Asuncion, on my way home, several

months after his release, that Lopez never treated him otherwise than as a gentleman.

By Mr. ORTH:

Q. Did he have reference to matters occurring before or after his arrest?—A. He referred to his whole intercourse with Lopez.

Q. Then you do not believe those statements were extorted from him?—A. None whatever. He told me that on the 26th of September President Lopez came and in person released him from confinement. He then again repeated that he was never treated by him otherwise than as a gentleman. This conversation was, I think, on the 1st or 2d of July, this year, and several months after the statement which Mr. Washburn has filed.

By Mr. WILKINSON:

Q. What did he say about his imprisonment?—A. I think the only allusion made to it was that President Lopez came in person and released him, on the 26th of September, from confinement.

Q. How long did he say to you he was in prison?—A. I do not remember that he stated. I was talking generally about Paraguayan matters with several gentlemen.

Q. How did he speak of his treatment by those who had charge of him in the prison?—A. He made no mention of that; he simply broke into the conversation with the remark I have stated.

Q. How long had he been in prison?—A. I do not know; I think two or three months. I only refer to this statement of Alonzo Taylor to have it placed with his other statement as additional proof. This statement was entirely voluntary on his part, no reference having been made to the treatment he received while in prison. He premised the remark by some such expression as this: "I do not care what others may say; President Lopez never treated me otherwise than as a gentleman." He was not then under the surveillance of Lopez; he was within the jurisdiction of the allies.

Q. It has been reported by the allies engaged in the war with Lopez, that among the killed in that war, in one of their recent battles, were a considerable number of women. Do you know anything about this?—A. I can say very positively that no women were in his army during my residence in Paraguay, except as camp-followers. That a number of women were killed in one of the battles I know, but they were not bearing arms. They had quarters of their own in the most sheltered part of the field when the allied artillery opened fire upon them.

Q. What were the women doing there?—A. They were there as camp-followers, for the most part the wives and families of soldiers. They took care of the camp, brought vegetables and provisions there, and occupied the general province that women do in any army. They policed their own camp, and attended to such duties.

Q. Did they attend to the bringing in of the wounded from the field?—A. Yes, sir; and sometimes assisted in moving the heavy guns. I saw them doing that, but, at the same time, they were doing it voluntarily, and with laughing enthusiasm. As a general thing their wounded were not brought in; they have no ambulance corps.

Q. What do you judge to be the total population of Paraguay, within Lopez's lines, at this time?—A. It is very difficult for me to give any estimate of that, because I do not know to what extent reliance can be placed upon the recent reports of large numbers of refugees who have come into the lines of the allies. I know that many of these reports, during my residence there, were exaggerated, and some of them wholly untrue. I know of one statement which the Brazilian papers published, that twelve thousand refugees had been brought in by an expedition sent out by the allies, while the fact was that the expedition was defeated and overwhelmed with great loss, and, being routed in confusion, brought in no refugees. Subsequently I learned from American and English residents in Asuncion, within the allied lines, that these reports in the papers about women and children coming in were greatly exaggerated, and these were facts within their knowledge, because there was no other point for them to come to except Asuncion. They also informed me that the treatment of these refugees who came in there was exceedingly cruel by the allies. I was told by a foreign resident in Asuncion that they were brought in laden with packs and various things, paraded round the streets, sometimes two or three days, to be exhibited, almost entirely naked, and no provision being made for clothing them, or providing for their comfort or necessity; that they were treated with insult and abuse, and turned loose upon the streets, subject to the caprices of the brutalized soldiery of Brazil. And the gentleman who told me this was in the interest of the allies. He said that formerly he thought it a piece of great barbarity on the part of Lopez to drive this population back within his own lines, but that now, since his residence in Asuncion, he was satisfied Lopez acted wisely and humanely in so doing, as it preserved them from the brutal indifference of the allied authorities, and the more brutal lusts of their soldiery.

Q. It has been stated here that there have been little boys taken prisoners who were fighting in the ranks of Lopez; boys as young as ten or eleven years. Do you know anything of that?—A. There is no doubt that boys are in his army as young as ten or

eleven, and I have seen these boys fighting with an amount of courage and heroism that surprised me.

Q. Were you present at any of the battles between the Paraguayan and allied forces?—

A. I was present at the engagement that took place on the 21st, 22d, and 23d of December.

Q. Do you know an officer in the Paraguayan army by the name of Thompson?—A. Yes, sir.

Q. What was he doing there?—A. He was in command of a battery.

Q. Have you seen a book written by him?—A. I have.

Q. This book contains what purports to be a letter from Lopez to you. Do you know anything about it?—A. I received a letter of which I suppose this to be a copy. I never read it but once, and returned it to President Lopez afterward.

Q. Did you receive the document annexed to it, of which this purports to be a copy?—

A. I suppose I received this document. I remember receiving some document similar to this, which he asked me to take charge of and deposit in the legation of the United States until such time as he should call for it. This was for safe-keeping in case of his death. I was very glad to comply with his request as an act of courtesy and humanity. I also took charge of his children to take them away from this scene of battle.

Q. Were you much acquainted with this man Thompson?—A. Not very well; I saw him two or three times.

Q. Did he appear to be an intelligent gentleman?—A. He had the reputation in the army of being a good soldier. He was in command at Angostura, which was the most important point on the river. The position of Lopez was five miles back. On the 27th of December Lopez fell back into the interior, leaving Thompson in an isolated position. Thompson, the following day, surrendered the post without firing a shot, for which Lopez blamed him very severely. On one occasion I expressed the opinion to President Lopez that I did not blame Thompson for surrendering this post; that he was entirely isolated and cut off, and that it was his duty as a soldier to surrender the position to prevent a needless sacrifice of life; whereupon the President said: "If this is your opinion let me show you the position he occupied, and give you some evidence on that point." He then showed me the position and pointed out its defenses, which were much stronger than I supposed. I asked him in regard to his supply of ammunition and provisions, in reply to which he gave me a letter written by Thompson the day previous, stating that he, Thompson, had achieved successfully an expedition, capturing quite a number of things which he named, among which were cattle, horses, wine, sutler's stores and money; stating that he was amply provisioned for at least a month; that he had plenty of ammunition, and an ample garrison, and asking the President's permission to hold that position to the last extremity. Lopez sent him an order to hold the position for eight days, at the close of which period, if not relieved, he was to use his own discretion as to the course he should pursue. On the following day Thompson surrendered without firing a shot. It was known in Paraguay that the occasion of his surrender was a letter which came to him from Dr. Stewart, who had previously deserted from Lopez's army. It is but justice to Dr. Stewart to say that he claims that he was captured, but that report was not believed in Paraguay, even among his co-patriots, and his action in inducing Thompson's surrender, and his subsequent conduct, convince me that his statement is not true. Upon reaching the allied headquarters he wrote a letter to Colonel Thompson assuring him that Lopez's position was entirely desperate, that his whole army was destroyed, and that Lopez was a fugitive, and I think it was in consequence of that letter, and of a subsequent interview had by him at headquarters, that Thompson surrendered. I think that he afterward discovered his mistake. I do not think he had any disposition to give up his post, but he has since been so severely blamed by Lopez for his surrender, that I do not think his statements about the matter are entitled to credence. Like many others, his defense and sole revenge consist in proving that Lopez is such a monster that even sworn officers are not obliged to keep faith with him.

Q. How many fighting men had Thompson?—A. I am not aware. My impression is that he had about twenty-seven hundred. I asked President Lopez how many men he had; he laughed and said he had enough.

Q. He states in this book that he had twenty-four hundred men, but that a great many of these were maimed soldiers, unable to do duty in battle, and that he had but eight hundred fighting men. Is that, in your judgment, a correct statement?—A. I think eight hundred Paraguayans were sufficient to hold that post against the Brazilian army.

Q. How many men do you understand were in that army?—A. I presume they could have brought at that time fourteen thousand men. I once saw sixteen thousand of them repulsed several times with great slaughter by a force, I have reason to believe, that did not exceed twenty-five hundred Paraguayans. The position of Angostura was very strong, and the iron-clad fleet, generally, behaved very badly.

Q. Do you think Thompson is an intelligent man, whose statements can be taken with reliance?—A. I do not know him at all, except from one or two interviews of a few

minutes. His character in Paraguay was that of a good soldier, and I heard nothing at all against him until his surrender of his post, which, as I have said, I think he discovered, subsequently, was done unnecessarily. I have no doubt he intended to act conscientiously, and was misled by the communication from Dr. Stewart. After this surrender he went down to Buenos Ayres, went home to England, and never returned again to Paraguay. In view of what has occurred I think his statements as against Lopez are not worthy of credence. When asked by Mr. Worthington, in Buenos Ayres, about the reported atrocities of Lopez, he disclaimed all knowledge of them.

Q. Were the men who occupied the positions of judges in that country priests?—A. Some were priests and some were not; many of the priests, being non-combatants, were appointed to serve as officers of these courts, three judges being required, I think, for each court.

Q. Have they any legal profession there as we have?—A. I think not; they still retain the old Spanish system.

Q. Please state what mode of trial is adopted.—A. I could give you no definite information; whatever information I have is taken from documents I have read, and from the statements of others. For petty offenses I suppose the mode is very much the same as in other courts. The accused is brought up, testimony is heard, and if found guilty sentence is passed. All the cases for conspiracy and treason, which have been mentioned in these documents, were concluded before I arrived there.

Q. Upon what nature of evidence did Lopez and the court rely in passing their judgment of condemnation or acquittal?—A. The evidence seems to have been to a great extent the confession of the parties, implicating themselves and others, and any other witnesses having knowledge of the facts, I presume, were examined.

Q. Did you ever hear of any trial for conspiracy or treason in Paraguay wherein the accused was permitted a fair trial and counsel, as they are allowed to them in civilized nations generally?—A. That is a very difficult question to answer. I do not presume to pass upon its fairness, not being present at any trial.

Q. Is it not generally understood that the first step in one of these trials is an attempt to extort confessions from the accused?—A. I know of no understanding upon the subject. I have heard conversations in regard to the trials, but I never heard any specific statements as to the mode of conducting them.

Q. You state in your previous testimony that the list of persons purporting to have been found in the diary of General Resquin was not correct. To what extent is it incorrect?—A. I glanced at the list as published at Buenos Ayres, and noticed that it included the name of the vice-president of Paraguay, whom I knew to be living. His name is given in the list, and he is described in the pamphlet as the late vice-president. This pamphlet was published by the Buenos Ayres authorities, and was handed to me as evidence of the atrocities of Lopez. I looked it over, and recollect seeing the name of this vice-president in the list, and the paragraph giving the description, referring to him as the vice-president, and stating that he was tortured for a long time, and then put to death. I stated to the party who handed it to me that this man was living when I left Paraguay. I gave very little attention to the list, merely glancing it over, and noticing several instances in which it was incorrect, and that many of those put to death were shot for desertion; that others were spies of the enemy, and that a great number had died of disease.

Q. Was the paper not made by one of Lopez's own officers?—A. It may have been. I am inclined to think it was very much interpolated elsewhere.

Q. How many names can you mention that are not correctly stated?—A. It is impossible for me to say. I knew a great many soldiers in Paraguay, but I do not know their names. I noticed the name of a person here as one who died, and that fact is true, for I happened to be present; but he died from a Brazilian bullet.

Q. Is it not common, in these old Spanish countries, to find many persons bearing the same name?—A. I do not know. It is very difficult to get at the truth from any documents published. The committee will remember that there never was a war in reference to which there was so much lying as in this Paraguayan war.

I gave an opinion the other day as to who Mrs. Lynch was, and in support of that opinion I would like to read the following extract from a Buenos Ayres paper which I have since received: "We publish to-day an interesting narrative of one of the English Paraguayan sufferers, just come down. He speaks in the highest terms of the kindness shown to himself and wife, and also to all the English in Lopez's employment, by Madame Lynch, and he, in common with all the sufferers, denounces, in indignant terms, the calumnies and slanders that have, from time to time, appeared in some of the organs of the press against this heroic woman, who has ever exerted herself to mitigate the suffering which the war entailed on the Paraguayan people."

I stated, in my former testimony, my belief that Mr. Washburn, at one time, entertained the opinion that a conspiracy in some form did exist, and in support of that belief, with the consent of the committee, I will refer to some of the correspondence on which the statement was based. In the communication from Mr. Washburn to the Paraguayan minister, Benitez, dated July 25, he says:

"It is with profound regret that I find myself compelled to differ with the govern-

ment of Paraguay in regard to the case of Mr. Bliss and Mr. Masterman; but if any man has reason to respect firmness and strict adherence to duty it is his excellency Marshal Lopez. After having maintained a struggle, almost unparalleled in history, for national independence, and having endured years of toil, danger, and sacrifice to defend his country and maintain a principle, he cannot but regard in another the same firmness and the same adherence to conviction and duty with respect and approval.

"That the plot of which your highness speaks has been detected and frustrated I would ask you to convey my most cordial and earnest felicitations to his excellency Marshal Lopez. I well remember what a thrill of horror ran through the civilized world when the great and good Abraham Lincoln fell before a foul assassin, and the universal execration that the deed provoked. That any person should be found in Paraguay engaged in a similar plot, is to me horrible beyond expression. Will your highness also felicitate his excellency the President for the returning of his birthday, and express my regret that I was unable yesterday, owing to the pressing duty of preparing this letter, to visit his excellency the vice-president at Luque, and formally offer my congratulations."

In another letter to the minister of foreign affairs, dated August 11, 1868, he writes:

"It is fortunate for me that I had not left the country previous to the discovery of this plot. Though my dispatches to my government would have completely disproved the declarations of the conspirators, and though I have no doubt that the letters which they have sent below will show that I was entirely ignorant of their plans, and that they had not dared to confide them to me, yet the impression would still have prevailed among many people that I had been a party to the not only wicked but inexpressibly stupid plot."

In another portion of the same correspondence Mr. Washburn writes to the same official, speaking of letters which had been sent by the conspirators into the lines of the enemy under his ministerial seal and privilege:

"On the 28th of April last, I sent away my last dispatches for Washington, to be forwarded below, and thence passed by flag of truce through the military lines. Whether I sent letters for other persons or not I do not remember, but I presume I did, though I do not recollect for whom.

"Your highness expresses regret that I should not have noted in my diary the names of the persons for whom I sent letters. I also regret it. But such is the fact, and it is now too late to remedy it. * * * * *

"I may have been wrong in sending letters for anybody without first knowing their contents; but as the minister of foreign affairs had already asked me to do the same thing for him, I could not suppose that the government would object to my sending family letters from persons holding no official position.

"I can make nothing of it, except that directly under my eyes there was a horrible conspiracy being formed, of which I knew or suspected nothing, and that the parties to it, after having abused my confidence and hospitality, have sought to divert the world's indignation from themselves by implicating in their crimes the minister of a great, a powerful, and an honorable nation. I may be wrong in my suspicions. God knows I would not wrongfully or unjustly accuse or suspect anybody, but that there has been treachery, ingratitude and villainy practiced upon me in some quarter is but too evident. All, however, will some day be made clear, and the guilty parties must hold a place in the history of infamy never before paralleled."

In a communication to the same party, under date of August 3, Mr. Washburn says:

"From this statement your honor will see that if I have in any way been the means of conveying intelligence to and fro between the enemies and traitors to Paraguay, I have myself been the victim of the most damnable treachery and ingratitude. But I yet cherish the hope that of those who have abused my confidence the number will be found the smallest possible. I cannot yet bring myself to acknowledge that I am of a nature so credulous, and so unfit to be a minister, as to have in my house for near five months persons with whom I was on the most intimate terms, and all whose thoughts I ought to have known, yet who were at the same time engaged in any plot against the government without my suspecting it. I yet cherish the hope that a full investigation will clear this legation of having given shelter to such parties."

"As I before said I do not think it strange that, after the declaration of Berges, the government should have regarded me, and those around me, with suspicion."

There are many other paragraphs of the same tenor.

In regard to the treatment of Bliss and Masterman as prisoners on United States ships of war, I desire to submit the following extracts from Mr. Washburn's letters, to show what his views were on that subject previous to this investigation.

Under date of July 20 (addressing the minister of foreign affairs) Mr. Washburn remarks:

"The law of nations clearly prescribes the course to be followed when persons, members of a legation, are found to be engaged in any unlawful acts. It says that the government which it has offended may ask that they shall be sent to their own country to be tried, when the minister will be bound to comply with the request. Therefore, if the charges and proofs against Mr. Bliss and Mr. Masterman shall be furnished me

with request that they should be sent to their respective countries to be tried, I shall then have no alternative but to comply, and at the first opportunity send them away, the one to the United States, the other to the custody of the English minister in Buenos Ayres. This course, it is hoped, will be satisfactory to the government of Paraguay, as it will remove persons obnoxious to it from the country, and will subject them to trial according to the laws of their own countries, and as there is little doubt that an American gunboat will soon be in these waters, there will probably be but little delay in carrying it into effect."

Again, on the 22d of July, he says:

"I will therefore undertake to hold Mr. Bliss and Mr. Masterman close prisoners in this legation till I can send them out of the country, or till such time as the government may not object to their being set at liberty."

Under date of July 13, he writes:

"Yet, as your honor is well aware, it is laid down by all writers on the rights of legation, that until they can depart from the country the members of a once accepted legation are entitled to certain immunities, and if any one commits an offense, the government to which he had been accredited is not authorized to try him, but may send him out of the country, and demand his punishment of his own government."

And on the 25th of the same month:

"Respecting the question whether Mr. Bliss and Mr. Masterman are, or are not, rightfully and legally, members of this legation, I waive all discussion at present. I have assumed, as I believe correctly, that they are, and if now I were to recede from that position it would appear weak, and would be a confession that I had acted illegally in sending them away, for which act I should be arraigned and censured by my government. I may be in error in my judgment, but holding the opinions that I do, I have no other course to pursue than give them the protection of my legation until I can send them to their respective countries to be tried."

The following I quote from a letter of Mr. Washburn to the same party, under date of August 13:

"To the question whether or not the punishment that my government would administer would be timely, I reply I do not see why not. Your honor cannot suppose that these two individuals, closely shut up as they are in this legation, and having no communication with any person outside of it, can be dangerous. If not, why will not their punishment, if proved guilty, be as timely some months hence as now? If they can give any evidence which is necessary to ascertain the truth in regard to other accused parties, they have both expressed their willingness to do it; and should the government choose to send a notary to my house to examine them, I will give him every facility for doing so. I will also say that Mr. Bliss has declared, in relation to the paper which your honor, in your note of the 23d of July, says that he, 'in a secret committee of mutual obligations,' has signed to commit an infamous crime, that if any such paper signed by him shall be produced at this legation, he will instantly leave it. To this I will add that, while I shall still insist on my rights of legation, I will undertake that he keep his promise to me." * * *

"Except under very extraordinary circumstances his (the minister's) house cannot be entered by the police, and no member of his legation can be cited before the local tribunals; and if they commit any offense against the laws of the country, all writers on international law declare that the minister shall either punish them himself or send them to his own country to be tried. These privileges and immunities, doubtless, frequently cause serious inconvenience to the local administration. But is it not better to submit to such inconveniences rather than have the law abrogated?"

Q. Are you acquainted with Benitez, to whom these letters are addressed, or did you know him in Paraguay?—A. No, sir.

Q. Have you heard anything as to what became of him?—A. I have heard from persons who have no other information than hearsay that he is dead; I have heard it said he was executed for treason and conspiracy.

Q. Did you believe the report?—A. I did.

Q. Did you, when you went to Paraguay, believe there had been a conspiracy?—

A. I will say that I was in a state of indecision upon that subject. I did not believe it possible that Lopez, at that stage of the war, could have been so foolish as to invent the story of a conspiracy, which would tend very much to encourage his enemies and to weaken his own cause, and for this reason I was inclined to believe that there had been a conspiracy. On the other hand there were reasons for doubting its existence—such as the statements made to me in Buenos Ayres by Mr. Washburn, to which I now attach less credit—and hence my mind was in a state of indecision upon the subject. My strongest reason for believing in its existence was my disinclination to believe that Lopez would willingly exhibit such internal weakness at a time when the allies were very much disheartened, and when his own prospects were very good. It seemed incredible that he should invent and publish to the world a story calculated to do his own cause so much injury. On the other hand, as I have said, Mr. Washburn assured me that he was satisfied that there was no conspiracy; and I was unable to make up

any definite opinion on the subject at that time, not wishing to doubt my predecessor in a matter in which he appeared so positive. Nevertheless, Mr. Washburn's correspondence with the government of Paraguay, some extracts from which I have submitted, could not be reconciled with his then statement, especially as it had not been possible for him to obtain any new information.

Q. Have you ever seen anybody, outside of Paraguay, who had been in Paraguay during the war, who believed there had ever been any conspiracy?—A. I do not know that I have seen more than one person who fulfilled the conditions of your question, and that one was Dr. Stewart, whose testimony, for sufficient reasons, I would not receive.

Q. Did you ever hear from Lopez that Bliss and Masterman were his spies?—A. No, sir.

Q. Have you heard, in this correspondence, the threat made by Lopez that he would forcibly take Bliss and Masterman from Washburn's house?—A. I am not aware of any such threat. I remember a statement that they would not be allowed to leave the country.

Q. Then you read the letter of Benitez to Washburn of July 31, 1868?—A. I have, but it conveys to my mind no other impression than that the government of Paraguay would follow out the principles of international law. It does not convey the impression to me that they would take Bliss and Masterman from Mr. Washburn's house.

By Mr. WILKINSON:

Q. Do you think there is a difference, so far as following international law is concerned, between taking them from the house and taking them from the presence of the minister just outside of the house?—A. If they were members of his legation I do not think there would be any difference. If they were not, in good faith, members of his legation, I should say that after leaving the house they were liable to arrest as any fugitive would be who had taken refuge in the legation. The Paraguayan government evidently believed that the United States government would not sustain Mr. Washburn in his claim that Bliss and Masterman were members of his legation.

Q. In a dispute that may arise between an accredited minister of the United States and the government to which he was sent, whose statements ought the officers of the United States to receive?—A. Clearly that of the minister in all cases which can influence or change their official conduct.

Q. Did you have any interview with the mother of Lopez or with his sisters?—A. No, sir.

Q. Did Minister Washburn address you a letter at Buenos Ayres, in which he requested you to call upon the mother and sisters of Lopez and convey to them the regards of Mrs. Washburn?—A. Mr. Washburn intrusted to me some friendly message, such as his regards, which I intended to deliver, but no opportunity offered during the short time I was in Paraguay to visit them personally, and my sudden recall prevented me from going to see these ladies; they lived in another town.

Q. Do you know of Lopez having children by any other woman than Mrs. Lynch?—A. I have stated that I know of but one. I might add that I think I heard of the death of a daughter.

Q. Mr. Washburn desires me to ask whether you heard of a monument, thirty feet high, being erected to that daughter?—A. No, sir.

Q. You have said you have learned, from correspondence between Mr. Washburn and the Paraguayan government, that Mr. Washburn had consented to keep Bliss and Masterman in his legation as prisoners. Did you understand from that that they were to be prisoners with their own consent or involuntary prisoners?—A. I did not understand that the offer was accepted, but, on the contrary, that it was peremptorily declined by the Paraguayan government. I suppose the offer was made to keep them as prisoners whether voluntary or involuntary.

Q. Mr. Washburn requests that you give your opinion as to the motive of Lopez in trying to connect him with the conspiracy and in withholding his passports.—A. My opinion is simply this: In the first place it may be that President Lopez believed Mr. Washburn was guilty of complicity in the conspiracy; and if so, that would be one sufficient motive. If the ground that Mr. Washburn takes is true, that Lopez knew he was not implicated, it may be that he acted through personal hostility to Mr. Washburn. Mr. Washburn had given serious cause of offence to the Paraguayan government in refusing to leave the city of Asuncion after its evacuation, and after it had been declared a military post, a refusal which I think should have necessitated Mr. Washburn's immediate departure from the country. Now how far Lopez, who is a suspicious man, may have believed in his complicity is impossible for me to say. In regard to refusing to give passports I do not know what delay Mr. Washburn refers to. I do not remember the length of time, but I will answer frankly that I did think the Paraguayan government were decidedly getting the better of Mr. Washburn in that correspondence. My impression was that Lopez through his minister was playing upon Mr. Washburn's fears, and thus compelling him to make a most humiliating display of himself and take a course which neither his government nor his best friends would approve, and that for these reasons Lopez desired to continue the correspondence as

long as he could. You will notice that he never refused to give the passports, but simply delayed in furnishing them. As long as Mr. Washburn acted upon the defensive and undertook to explain in detail any charge, he was placed very much at a disadvantage and wholly forgot his position as minister of the United States, and it was Lopez's policy, of course, to continue the correspondence. This has been a motive that suggested itself to me in accounting for the delay in issuing passports. I do not think they were refused at all, but simply delayed.

Q. Did you regard Mr. Washburn's house as the legation of the United States after his departure?—A. Necessarily not; but I regarded it as the place of deposit of the archives and other property which had been left behind by Mr. Washburn, and to that extent entitled to respect and protection.

Q. Did you take possession of the house occupied by Mr. Washburn?—A. I did, by authority of the owner which I had previously obtained.

Q. What became of the property left behind by Mr. Washburn?—A. I understood it had all been stolen by the Brazilian troops before my arrival.

By Mr. SWANN:

Q. When did you enter in the Union army?—A. I entered in 1861.

Q. With what organization were you connected?—A. I entered as captain and aide-de-camp in the United States army.

Q. How long were you in the Union army?—A. I served until the close of the war and some months after.

Q. Were you connected with the Irish brigade?—A. No, sir; not during the war. At the close of the war I became colonel of the 69th regiment of New York.

Q. You rose by promotion to your present rank?—A. I did to the rank of major general by brevet.

Q. What were the prominent engagements in which you appeared?—A. I was, I think, in all the principal engagements of the army of the Potomac from the first movement from Washington up to the crossing of the James River for the siege of Petersburg.

Q. How long after you retired from the army was your commission as minister to Paraguay conferred upon you?—A. About two years after.

Q. Do you know through whose instrumentality that position was given you?—A. I was recommended by a number of prominent gentlemen here and elsewhere for appointment as minister to Mexico. I do not know at whose suggestion I was appointed as minister to Paraguay. The first notice I had of it was in a newspaper dispatch.

Q. How long were you in Paraguay?—A. I remained from December, 1868, to July, 1869.

Q. When you received your recall, by whom was the order made?—A. I was recalled by President Grant. It was during the connection of Mr. E. B. Washburne with the State Department, and the recall was sent by him.

Q. Had you been aware of any dissatisfaction with your public course, and were you surprised when you learned of your recall?—A. I was very much surprised. No dissatisfaction with my public course had been expressed. On the contrary, the dispatches which came at the same time with my recall conveyed the approval of the State Department of my conduct in Paraguay, and I have since received from the department a very strong approval of my latter course there.

By Mr. WILKINSON:

Q. From the time you went there till you came away what communication did you have with the government of the United States?—A. None whatever after going into the interior up to the time of my recall. All my communications had been persistently interrupted by the allies.

Q. Then the United States government did not have any communication from you, and nothing to approve or disapprove?—A. Yes, sir; they approved my course in regard to Bliss and Masterman, in regard to which they had full information.

Q. By whom were these dispatches of approval signed?—A. The first by Mr. Seward, and the later one by Mr. Fish.

Q. Did Mr. Fish approve of your conduct in regard to Bliss and Masterman?—A. No, sir; he had nothing to do with that; that had all been disposed of by previous dispatches, and I believe it is not customary to duplicate approvals unnecessarily. I speak of transactions about the time of my leaving Paraguay, which were the only matters in regard to which I had to take official action.

By Mr. ORTH:

Q. During your residence as minister to the Paraguayan government, how many American citizens were inhabiting the republic of Paraguay?—A. Two, as far as I knew. I have never learned of any others.

Q. What diplomatic intercourse with reference to the settlement of any question was had between you and the Paraguayan government as minister?—A. There was a case

of reclamation for property taken for the use of the army in Corrientes which is not yet finally settled. The only point, other than I have named, were verbal communications to the Paraguayan President in regard to negotiations for peace; but as a good part of them were regarded as confidential as between President Lopez and myself, in my capacity as minister, very little of it went into the diplomatic correspondence. I also had a communication subsequently in regard to the question as to the allied prisoners. There was a long controversy about that.

Q. In this matter of communicating with Lopez, had you had any instructions from the home government?—A. I never had any; I acted on my own volition. I had general instructions.

Q. Among the prisoners in whose behalf you corresponded with Lopez, were there any American citizens?—A. I think not; they were allied soldiers.

Q. Was there any matter of interest to your government requiring your attention at any time while you were minister to Paraguay, and during your residence there?—A. I think the mere presence of a minister there was important to this government, for the purpose of sustaining this cause of republican independence in South America, which, whatever may be said for or against Lopez, he certainly represents; and for the purpose of securing to our government certain commercial advantages on the river La Plata, in case Lopez was successful in the war. There was little that touched any individual citizens there.

Q. You state that the residence of a minister there is important, in view of the fact that Paraguay is a republic; let me ask you whether the individual subject or citizen of Brazil is not more fully protected in his individual rights under his government than the citizen of the republic of Paraguay?—A. I am not competent to pass upon this question, because I cannot state what independence the Brazilian subject enjoys, except having seen "volunteers" for the Brazilian army, who had come from the interior in chains and under guard, two and two, to be sent to the army. The Paraguayans are a very peculiar people. They talk a great deal about liberty, but they confound liberty and independence. They have a passionate love of independence, but, as far as personal liberty is concerned there is very little of it in Paraguay, as we understand it. They have always been accustomed to an arbitrary sort of government, with which they are supposed to have nothing to do except to follow their own avocations; but when the question of independence of a foreign nation comes up, there never has been a people who have shown a stronger love of independence than the Paraguayans, from the lowest to the highest, or who would more readily die to preserve it.

Q. You say that you have ascertained that there are two Americans in Paraguay; did either of these Americans call upon you in any official capacity to act in their behalf; and if so, under what circumstances?—A. Never to act officially in their behalf. They called upon me socially; and one of them mentioned that he had property which had been taken by the government at the commencement of the war, and which he thought constituted just ground for reclamation. I told him that if he wanted to present the claim I thought the time was inopportune; that he had better wait until the close of the war; but that I would call the attention of the minister to the subject, which I did in a personal interview. This was immediately previous to my leaving the country.

Q. Please state more fully your reasons for thinking this government ought to have a minister in Paraguay.—A. As I have already stated, I think that Lopez is now contending for the cause of republican independence in South America. If Brazil succeeds in the destruction of Paraguay, the destruction of the Argentine Republic will follow, as that of Uruguay as an independent power has preceded, and the entire control of the La Plata and its tributaries will fall into the hands of Brazil; and the policy of Brazil has always been exclusive; they have always contended against the free navigation of the La Plata and its tributaries; and when, years ago, it was secured to the world by treaties made by Paraguay with the great powers of the world, Brazil and Buenos Ayres protested against the treaties. In the treaty of the triple alliance, moreover, among other stipulations there is one, that, upon the destruction of Lopez in Paraguay, the La Plata and its tributaries shall be free for the flags of the allied nations, and such other riparian powers as they may admit to such privilege; from which the inference may be drawn that it is not to be free for other governments. Brazil has neither the energy nor the population to develop that country nor her own; and it will always remain just as the northern and interior provinces of the empire remain now, undeveloped, with no commerce whatever. I think, on the contrary, that if Paraguay retains its independence, and especially through the influence of the United States, that the United States can develop a magnificent commerce on that river. I think it is generally admitted that the resources of Paraguay, in cotton, sugar, rice, tobacco, rare woods, medicines, marbles, and minerals, far surpass those of all the other South American countries, and I think the effect of our continuing a minister in Paraguay would be to secure for this country very great commercial advantages, as well as the effect it would have upon the republican sentiment of the continent of South America, and also tend to preserve our prestige in South America, which has been

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greatly impaired by the withdrawal of our minister from Paraguay; a fact which, not being as well understood elsewhere as it is by many people here, creates the belief that in this great crisis through which the southern continent is passing, the United States, which ought to be the natural protector of republics, especially against an empire based on human slavery, is indifferent or even hostile in sentiment to that republic, which is making one of the most heroic fights ever witnessed against a most powerful but unnatural alliance. In comparison with these considerations I regard even Mr. Washburn's vindication unimportant.

Q. How do you understand these objects can be effected by the residence of an American minister in Paraguay?—A. The allies have all along tried to alienate the sympathies of foreign nations, and especially of the United States, from Paraguay and the Paraguayan cause. They worked unceasingly while I was in Paraguay to excite such fears for my personal safety as would induce my withdrawal. The withdrawal of the American minister leaves Paraguay perfectly isolated, without any means whatever of representing its cause to this or any other government. It remains shut out completely from the world and loses the moral prestige of having an American minister there; and so far as representations to other nations is concerned, the Paraguayan government will remain entirely at the mercy of the trained system of falsehood of the allies, which is far more vigorous than their arms.

Q. Do you understand that it is any part of the duty of an American minister to act as a missionary for the spread of republicanism?—A. No, sir; but it is part of his duty to tell the truth. When this war commenced the United States was represented by a minister accredited to the government of Paraguay. The war is not concluded, and I see no reason why, during the struggle, our minister should be withdrawn from one of the belligerents and not from the others, thereby creating an impression among those who do not know the circumstances of the withdrawal, that the United States has abandoned this gallant little republic which is fighting its battles for independence, and that our sympathies are with her enemies.

Q. From what you know, do you regard the government existing in Paraguay as entitling it to the name of a republic?—A. Certainly. It has an elective President; I have nothing to say as to the mode by which he is elected; it is not the province of a minister to investigate that subject; in my judgment it is a form of government peculiarly adapted to the Paraguayan people, and under any other form of government I think these people will, at least for a time, rapidly degenerate.

Q. Then the only republican principle you have discovered in that government is the fact that the president is elected?—A. I have not said so.

Q. Will you state how that election occurs?—A. I do not know; I know that he is elected by a Congress. He is elected, I believe, according to the forms of their constitution, and it is their affair not ours if he is not.

Q. That Congress, I understand, meets once in ten years, for the purpose of electing a president, and has no other functions to perform; do you consider that act as sufficient to constitute a republican government?—A. I think that any government which is maintained by the consent, and its chief magistracy transmitted by the vote, of the people is republican in form.

Additional Statement of Hon. Charles A. Washburn

WASHINGTON, D. C., November 15, 1869.

CHARLES A. WASHBURN appeared and was allowed to make the following additional statement:

When I gave my former testimony I could not understand or explain so well as I can now the origin of the idea in Lopez's mind that there was something going on opposed to his orders. I did not believe then, nor do I believe now, that there ever was anything like a conspiracy there. On the 21st of February, 1868, at nightfall, I first learned that the Brazilian iron-clads had passed above Humaita, and I supposed, and all around me supposed, that Lopez was completely invested in his position, and that it would be impossible for him to escape, or at least for his army to escape. I have since seen a copy of a letter written by the Vice-President, Sanchez, by which it appears that the minister (Berges) of foreign affairs had received notice two days earlier of the passage of the iron-clads, and it appears from that letter that when they learned this the military commander there called together the higher officers of the government to deliberate upon what they should do; and they decided, after consultation, that though they had scarcely anything to oppose to the iron-clads if they came up the river, yet with such force as they had they must make the attempt. They accordingly put the little fort which they had to oppose to them in as good a position as possible. On the 23d or 24th of February, two iron-clads approached, and we all supposed that the day of deliverance had come. They commenced firing upon the fort. The fort had nothing

to oppose but one large 150-pounder, which was very badly mounted, and which, I learned, could not be depressed sufficiently to strike anywhere near the iron-clads. They had a few old and small pieces—two or three—which they fired three or four times. They fired the big gun probably twice, and found that her shots could do no damage. The iron-clads fired about thirty-five or forty times, doing no damage to the fort and scarcely any to the town. After that brave display they turned tail and ran away. Lopez, when he learned that his ministers had been in council as to what they should do, immediately summoned Sanchez, Berges, and some others to his headquarters at Humaita. Before that time, his brother-in-law, Bedoya, had been called down and was, as it appears from this letter, in very bad repute with the President. After a time, however, when Lopez retreated from Humaita, these ministers accompanied him or followed him. Sanchez and Berges were sent to Asuncion; but it appears from this letter that Bedoya, being pressed to confess what he had already done—being tortured, as I understand—he began to accuse others. Benigno Lopez was called below. I think he was called below even before Lopez had retreated from Humaita; and then Bedoya in his torture began by accusing others. Benigno was called, and in his torture he did the same thing, and gradually all the principal men were arrested and put to the torture, and tortured until they either died or would implicate other people, so that the result was, all the best people in Paraguay were finally accused, taken to headquarters, and tortured until they confessed all that Lopez required of them, or died from the effects of torture. If they did not die they were subsequently executed.

I also wish to state something concerning the origin of the war, as I was present in Asuncion at the time and know all the facts, or most of them. Lopez, when he began his great military operations early in the year 1864, had, to all appearance, no idea of making war upon Brazil. Most of the articles which he had published in his *Seminario*, of a warlike character, were directed against the Argentine Republic. It was evident that he wanted to make war against somebody for the military fame it would give him, as well as to enable him to extend the boundaries of his dominions. It was believed by all foreigners, and such Paraguayans as I was very intimate with, that he intended to have himself declared Emperor. It is also believed that he had the expectation or the hope that the Emperor of Brazil, having acknowledged him as Emperor of Paraguay, would give him one of his daughters for an Empress. But he learned during the summer that the Emperor had other designs, and that his two daughters were to be married to European princes. Then he began to assail Brazil through his newspaper, and threaten to interfere with the military operations of Brazil against the Bando Oriental, or Uruguay, and after more or less correspondence with the Brazilian government through its minister Vienna di Lima, he sent a note, written by José Berges—the same whom he afterwards accused as a conspirator, tortured and executed—his minister of foreign affairs, in which he intimated vaguely that if Brazil did not desist from her contemplated operations, Paraguay would be at liberty to take up the cause of Uruguay in defense of the balance of power. This vague intimation was given in these words: "His Excellency, the President of the Republic, has ordered the undersigned to declare to your Excellency, as the representative of his Majesty the Emperor of Brazil, that the government of the republic of Paraguay will consider as infringing on the equilibrium of the states on the La Plata, any occupation by the military forces of Montevidean territory from the motives named in the ultimatum of the 4th instant, sent to the Oriental government by the special minister plenipotentiary of the Emperor, as that equilibrium interests Paraguay as a guarantee of her safety, peace, and prosperity; and that he protests in the most solemn manner against such an act, relieving himself of all responsibility as to the results of this declaration."

This was on the 30th of August. It has been often asserted that Lopez had notified Brazil that if it did not desist it would be an act of war against Paraguay. This is all the notice he had given, and nobody in Brazil or Buenos Ayres regarded it as such a notice. That Brazil did not regard it as such a notice is evident from the fact that her packet steamer went her usual trip to Paraguay intending to pass up to the upper provinces of Matto Grosso, as though nothing had happened. Nobody in Paraguay, so far as I knew, had any suspicion that war was to follow because of that declaration, and Lopez himself did not intend it should follow until the day of the arrival of that steamer. And I was informed in a manner that leaves no room for doubt—indeed I know—that the steamer which arrived in Asuncion on the morning of the —th of October, 1864, had brought letters to Lopez as to a friendly power, and one of those letters gave him the information that there were some arms on board of this steamer, the *Marquez de Olinda*, and two hundred thousand dollars in money. Lopez was then at his military camp in Cerra Leon, some twelve leagues from Asuncion, the capital. The steamer had on board a new governor—or rather president—for the upper province of Matto Grosso, and some other officials of lesser grade. It took on board coal and fresh provisions, and about one o'clock started to resume its trip. Lopez received these letters from below and gave orders that his war steamer, the *Tacuari*, should pursue the *Marques de Olinda* and bring her back. It started off that night, and on the morning of the second day after, the two steamers were anchored in front of Asuncion.

The new governor of Malto Grosso, the officers and crew of the *Marquez de Olinda*, and all the other Brazilians, were made prisoners and were kept so until they died of their sufferings or were executed. The steamer was declared a prize and converted into a Paraguayan war steamer, and Brazil had no notice whatever except this vague intimation of the 30th of August. The port was effectually closed; nobody could leave Paraguay. The minister could not leave; no means were offered him, and he applied to me, as being the senior or dean of the diplomatic body there, to intervene and obtain him the means of leaving the country. I did so. I had a long correspondence with Berges, Lopez's minister, and I began to fear that the Brazilian minister, his large family, and all his suite were to be kept prisoners in Paraguay. I went out to Lopez's camp and had a long interview with him. I told him that I did not understand that he had commenced the war according to the laws of war; that I did not understand even then that war had begun. But he said it had; it was a state of war. I told him then that the minister had an undeniable right to leave the country, and in a way consistent with the comfort and dignity of a minister. He told me that he could leave when he pleased; he had his passports. I told him he could not leave, because no vessels were allowed to go down the river. He said he could go by land. I told him that with his large family and the roads being impassable from there to Corrientes, that it would be next to an impossibility, that it would be at great risk of the lives of the ladies and children of his family, and that if he did not allow them to go, I should be compelled to make my protest against that invasion of the rights of legation, and if my protest was not respected, I should then ask my passports. Lopez, after a great deal of *wiggling* and *wriggling*, said he would send them away provided that he would give a guarantee both to him and to the United States government through me, that the vessel that went to take him should be permitted to return unmolested. I accepted the proposition, and returned to the capital, and yet there was a great deal of additional correspondence, which resulted, however, in his providing a steamer, and Vienna de Lima and his family got away. He believed then that he owed his escape entirely to me. And I have been informed since—he told Mr. Kirk, our minister at Buenos Ayres—that he was satisfied from the subsequent developments of Lopez's character, that he and his whole family owed their lives to my interference, and yet for this service I have never received any recognition or acknowledgment from the Brazilian government, and nothing but incivility from its military and naval commanders.

Now as attempts have been made to invalidate the testimony of the memorialists to Congress, Messrs. Bliss and Masterman, I wish to put in the statements made by other parties who have escaped from Paraguay since I did. There is the statement of Mr. Alonzo Taylor, whom I knew very well in Asuncion—a most worthy and truthful man. He describes his sufferings, his arrest, his torture, and in every respect his narrative confirms that of Bliss and Masterman. It was stated by one witness before this committee, that he had reason to believe, or had been told, that Bliss and Masterman had not been tortured. Mr. Taylor in his declaration states that when everybody was being tortured, he saw Masterman brought in with his face bloody, from which he inferred, of course, that he had been tortured. [Statement appended, marked A.]

I also give the statement as made by Captain Don Adolfo Saguier, a Paraguayan officer, whose testimony is similar to that of Mr. Taylor, and in all respects confirms it. [Statement appended, marked B.]

Then I would like to put in some papers for what they are worth, which were taken from Lopez's camp after the battle of Lomas Valentinas, December 27, 1868. I will state that the evidence I have that they were taken from Lopez's camp is, first, the facc of them, and second, the evidence of Mr. Worthington that he saw the original of one of the principal papers in the hands of the Argentine officials, and did not doubt it was what it purported to be. [Appended, marked C.]

I also wish to give the statement of Don Matias Goiburú which he made after he had escaped from Lopez. He was one of the *fiscales* of Lopez and superintended some of his tortures, and in this statement he tells how he was compelled to do the most atrocious acts. There was always a spy standing over him to report immediately to Lopez any delinquency, and he was forced from fear and terror to do the most terrible things, knowing that if he hesitated they would be visited upon him. [Appended, marked D.]

I would like to make a statement, also, in reference to the remarks of General McMahon about my having erred in continuing the correspondence as I did. I will state that when I received these formidable letters—after several persons who had been in my legation had left and I feared had gone to their destruction—and my fears I have since found were correct—Mr. Bliss, Mr. Masterman, and myself, debated very anxiously as to the course we should pursue when I was implicated. I proposed that I should send back that letter and refuse to continue any such correspondence. They said—and I was very much of their opinion—that such an act on my part would insure their immediate seizure, and I considered, after much reflection, that it was my duty to forget to a certain extent the dignity of my position and prolong the

correspondence, until a gunboat should come to our rescue; that I should answer those letters, and make very long answers that would take him some time to answer—so long that Lopez could not complain that I did not answer. His letters were immensely long, and therefore I wrote those letters and did prolong the correspondence until the Wasp arrived; and if you will notice the last long letter signed by Caminos, you will observe and be surprised at its inconsequential ending. That letter, as I have every reason to believe from its intrinsic character, was written before the Wasp had arrived, with the intention of seizing Bliss and Masterman, and denouncing them. It was a long recapitulation of what purported to be declarations from his minister of foreign affairs, Berges, from his two brothers, from his chief justice, and from Carreras and Rodriguez—not a word of truth in any of them. He prepared his letter, I am fully persuaded, intending to say that Bliss and Masterman would be taken immediately, and before he got ready to send it the Wasp came up and he didn't send it. If he had taken them I was well aware that he would have them tortured and that they would make declarations and he would send what purported to be their declaration—of a similar character to those that had been made by Benigno Lopez, Vincenzo, Berges, his chief justice, and all the others—and after that I should be advised that they had evidence that the conspiracy was still going on or something to that effect, and I should have been taken. That is the opinion, I believe, of all the people who were in Paraguay at the time. I have been informed by two or three that I have since seen, that they were expecting to see me every day brought there as a prisoner to headquarters. General McMahon may know better about this than I do; but if Lopez played upon my fears, then why did he send that letter of accusation against me—that last one? I will say, moreover, that we were in daily and hourly expectation that the house would be entered and Bliss and Masterman taken away. They were in such expectation of it that each had a little carpet-bag ready with certain things in it such as a comb and a little change of linen, &c., expecting to have the police enter and take them away suddenly, and hoped they could pick up that satchel and carry it with them; and I was persuaded, and am persuaded, that Lopez was on the point of searching my house; I had a great many manuscripts there that I had written myself, and I was afraid he would get hold of them, and if he had, neither they nor I would ever have left Paraguay. They will be published if I ever get time to complete my book. They were what I had written myself of his government and character. For some time I had a fire in the oven of my kitchen with instructions to my wife on the approach of the police to rush into the kitchen and put them into the fire. Now I might have acted without sufficient cause, but I had been in Paraguay longer than General McMahon had, and I know the truth a great deal better than he does.

I will pass now to the time when I left the legation. General McMahon says, in his testimony, that after I left the legation Bliss and Masterman followed. I had sent my wife, children, and servants ahead, as my wife was particularly anxious not to see or be present at the scene of their arrest, as we were satisfied they would be arrested. We were satisfied, all of us, (Bliss and Masterman, particularly, were satisfied,) that the less we did to enrage Lopez the better it would be, for we feared, until the last moment, that I should not get away. I feared and apprehended I should be stopped there after I got aboard of his little steamer, particularly for this reason: Masterman had some property, all he had in the world, amounting to some two thousand dollars or more, which he had made over to me; made a paper, saying: "In consequence of the great kindness you have shown me, I hereby make you a present of all my property I have got in Paraguay." I took that paper, though I told him I would rather put a hundred pounds to his credit than venture to take them, yet I would take them. I sent them aboard the steamer. They were four days aboard the steamer before I was permitted to embark, and nearly all my own baggage was on board. I apprehended that Lopez would wish to detain that, and would detain it—that property of Masterman's—and make it a pretext for detaining me, saying I was carrying away the property of conspirators, and the evidence of the conspiracy, or something of that kind. But I took it nevertheless, and we started to leave the house. The two consuls, Italian and French, were there to accompany me down to the boat, and I wanted them for witnesses, though Mr. Cuberville told me, the day of my departure, that he was apprehensive of being arrested at any moment. "I didn't know but what I might have fetters on my ankles, and be in prison before night," he said. We started. I got to the front door, and I happened to think my servant had left my hat box, and I returned and picked up my hat box myself, and came back. We walked along the corridor about half way, when Masterman, who is a little fool and of immense conceit, proposed to deliver himself up. The police in front had gathered around, perhaps twenty or thirty, when Masterman proposed to deliver himself up. It was a large house with a corridor in front. We had got about half way from the door to the corner, along the corridor, when Masterman says: "If they are going to take us they may just as well do it here," and was going to deliver himself into their hands. I said: "No; don't deliver yourself up; make them take you." I was angry, and I was frightened at the stupidity of the fellow, and says I: "Come along and make them take you." We got to the corner of the house;

I was a little ahead of the two consuls; one was at my right, not a foot in my rear, and Bliss and Masterman were in my rear, probably not four or five feet from me. Just as quick as I stepped down they rushed in and grabbed Bliss and Masterman; there were twenty or thirty of them. I stepped along, about two-thirds of the way across the street, and turned around. Masterman stopped a little, and raised his hat and said: "Good-bye, Mr. Washburn; don't forget us." I sung out: "I will do the best I can for you." I knew these men did not understand a word I said; if they had I would not have said it. Bliss, in the meanwhile, was just being pushed along, and they were taken off, and that is the last I saw of them.

By Mr. WILKINSON:

Q. Did you think that was violating the flag?—A. Well, I told Lopez, as soon as I got under the flag and beyond his power, that that was as gross a violation of the flag of the United States as though they had entered my house and taken them. I am yet of that opinion. Now I will speak of the condition of the mother and sisters of Lopez, whom General McMahon spoke of as being so kindly treated by her beloved son, and state what I know. I was the only person, I think, for months, that dared to go near her house without the permission of her big, brutal son. I have been there, and she and her daughter Raphaella, whose husband Lopez tortured until he died under torture, have told me they were kept prisoners in their house; that nobody dared to go near them; that their son Venancio could not come without permission of his big brother; neither could their medical attendant. They were worse off, they said, than anybody else. They said they hoped I would never leave the country; that I would probably be able to give protection at the last moment, and it was as clear as the sun at noon-day that they were hoping for deliverance at the hands of the allies. They had more confidence in me than in their blood relative, a great deal. I told them I would do the best I could to remain; that it was very unpleasant, and I wanted to get away, but I hoped in the final catastrophe I might be of service, and I would try and stay. I staid until the Wasp came, and I knew if I had asked for passports before this order for the evacuation of the town had come, that Lopez would not have given them to me.

Now I will speak about my dispatches. General McMahon says he does not think Lopez would have stopped my dispatches. I know he did. I know from the use he made of the contents of them in letters to me. I did not suppose it at the time. There were some things alluded to that I did not know how he could get hold of, but when I got to Buenos Ayres, and found my dispatches had not got through, I understood it all. I know Lopez stopped my dispatches.

General McMahon says that Lopez is an elective president—by the will of the people. I was in Paraguay at the time he was elected, and I will tell you how it was done.

In each district there is a chief of police and a judge. They are appointed by Lopez, and they constitute the government in each district. They were appointed before his election, by his father, but he being the military commander under his father, he had had pretty much the control of the government before his father died; and it was some months, I do not remember how long, that he was vice-president, with absolute power, before this so-called election took place. He sent out for such men as he wanted to come in—to be sent in as delegates to this congress. And if any man was sent in as a delegate who didn't suit him, he would send him back about his business. Some men that were nominated were returned back, I know. He then had a great military force about his congress.

Q. Who appointed these congressmen?—A. Lopez himself; he appointed everything. He sent out there and told them who to send in. A great many of the judges and the people have no voice whatever.

Q. Do you mean that they did not go through the forms?—A. I do.

Q. No election was held?—A. No, nothing of the kind; orders were sent out who should be elected.

Q. What does the constitution require?—A. Nothing that I remember. The constitution has no more binding force than the Pilgrim's Progress. There is no election. The men that Lopez wants are sent in.

By Mr. ORTH:

Q. Why, then, doesn't he do this directly?—A. It is an illusion that he wants to keep up.

Q. Then the constitution must require their appointment?—A. Yes, sir; it is barely possible that the farce of an election is gone through with; but the people would vote for just the person Lopez would designate, and if any man didn't he would be taken and put in prison immediately.

By Mr. SWANN:

Q. I understand you to say, from your own knowledge, that no notice was given of the election, and no popular election was held which resulted in the elevation of Lopez to the presidency?—A. According to my recollection the notice was given that the president was to be elected, and congress was to be called; but he sent out and desig-

nated the people who were to compose that congress. I know that of my own knowledge; that is, I am as sure of it as I am that the battle of Waterloo took place. These men who had been designated for the congress came in, and the palace where they met was surrounded by soldiers; and one unfortunate man by the name of Varela, the richest man in Paraguay for the time, when the congress met, of which Lopez himself was president—one man got up and said that he had read in the constitution that the government of Paraguay was not to be the hereditary property of any family; it was not to be the heritage of any family; and though he had great admiration for the illustrious Francisco Solano Lopez, and thought the country owed him a great deal, yet, with that proviso in the constitution, he did not see how he could support him. Another man got up and answered his objections.

Q. Do you understand that there is anything in the constitution of Paraguay which rendered him ineligible to office?—A. I do not. I think the answers given were valid enough. This man was a clever man, by the way—Vasquez. His answer was to the effect that though the constitution did so provide, the meaning of it was that no father should bequeath the government to his son; but that the people still had the right to elect whoever they saw fit. Varela expressed himself satisfied. The vote was taken. There was a great quantity of troops with bayonets about the palace. Lopez was declared unanimously elected. Varela was immediately arrested and never saw daylight again, and his property confiscated. He was the richest man in Paraguay. He was put in prison, and I suppose he had the vote of most of the others. That was the way Lopez was elected, and that is the kind of republicanism that exists there. I was there at the time, and am perfectly conversant with all the facts.

Q. Was there any announcement of the fact, by proclamation or otherwise, that an election had been held, and that Lopez had been unanimously elected president?—A. Yes, sir; I think so; it was published in the paper in some form or other.

I also wish to say this: that among the other atrocities of Lopez, it seems as though it had been his object to bring upon himself the curse which is found in these words: "The eye that mocketh its father, and scorneth to obey its mother, the ravens of the valley shall pick it out, and the young eagles shall eat it." He arrested all the confidential friends of his father and mother; he took this Padre Mais, who had been the confessor of the two, a priest who has since become the head of his inquisitors by the most blasphemous document which he published, likening Lopez to Jesus Christ, or even putting him above him; he took all these men and arrested them and put them in prison; a great many of them he killed.

I also wish to state that I find, as far as I can learn, that everybody in Paraguay that knew Lopez well—was there before the war and through the war—are every one my friends. I had not an enemy in Paraguay, except Lopez, Mrs. Lynch, and, perhaps, Masterman, whose life I saved; and if I were to go back there I should be welcomed by all the survivors. I will read from an English newspaper, the Plymouth Western News, the report of Dr. Turnbull, who gives an account of the condition of the English who have escaped, I think, since General McMahon left: "All the foreigners who have now escaped confirm the worst that has been said of the frightful atrocities of this merciless tyrant, Lopez; and speak of the terrible state of suspense they have lived in for months, nay, for years, past. To those who have taken any interest in this war it will suffice to say that they, one and all, speak in favor of Mr. Washburn, the United States minister, and condemn his successor, General McMahon."

APPENDIX A.

My name is Alonzo Taylor. I was born in Chelsea, and I am a stonemason and builder by trade. In November, 1858, I made an engagement, through Messrs. Blyth, of Limehouse, to serve Lopez in Paraguay, for a period of three years, and teach the natives my trade. I am a married man, but I thought I would go alone and see what the country was like; and in 1861 my wife and my children came out to me, and we lived in a house near the Aduana. * * *

Although I was disgusted by this time (1867) with the war, and the change in the country consequent thereon, still I did not see my way clear, or how I was to get my wife and children out of the country, for Lopez never gave us the option of leaving; so I made a contract for another year. Many Englishmen in the employment of the government refused to make fresh contracts, and I wish I had acted in the same manner. * * *

On the 21st of July, 1868, after working hard at the soap works at Luque, I returned to my house at ten o'clock at night. Shortly afterward a cavalry soldier knocked, and told me through the door that I was ordered into the capital by the minister of war and marine, but he could not tell me why. But I knew it was useless to resist, so I mounted my horse and went with the soldier, who, when we passed the ministerio, told me that he had orders to conduct me to the captain of the port; so we rode on to the river bank, where I found a crowd of men. I dismounted, and was immediately, despite my remonstrances, put in irons, and placed with eight or nine other prisoners

until the morning, and then we were put on board the Salto de Guayra steamer. Mrs. Lynch and her eldest son, Francisco, came on board with some officers about eleven, and then we started down the river. As she left the steamer Mrs. Lynch looked, but she took no apparent notice of me, although she used to be very kind to me, and my daughter was often in her house. I had asked an officer who was on board, and used to be very intimate with me, if he would let me speak to her, but he said that being a prisoner I could speak to no one, much less to her. He abused me, and seemed to delight in my misfortune.

At this time President Lopez had his headquarters on the Tebicuari, a large river which runs into the Paraguay. We got there about four o'clock in the morning, disembarked, and had to march to the camp, a distance of six miles, in irons, and it was then our sufferings commenced. Our party consisted of an old man named Sortera, (he was very ill, and was not in irons, because he was unable to walk; he was the father of the 2^{do} captain of the port;) two Orientales, six Italians, a Corrientino, three Spaniards, one Paraguayan, and myself; eleven in all. With the exception of two, all wore one set of irons, and some two—thick bars and rings weighing from twenty to thirty pounds. A six-mile walk in Paraguay, at any time, would try a good pedestrian, but with heavy fetters on both ankles, in which one could only slowly shuffle along, was dreadful work. Besides that, we had to carry two of our sick companions, old Sortera and an Italian. They were put in hammocks, and carried slung on a pole. We had a strong guard with us, and they accelerated our march by an unsparing use of the point of the bayonet, and flogged those who lagged behind with thongs of raw hide.

That dreadful journey made a stronger impression on me than anything I suffered afterward, for it was all new to me, and I was in robust health. Afterward, when I was reduced in health and strength, I became stolid and listless, and suffered much less, both morally and physically.

After hours of incessant toil we arrived in San Fernando, a place never to be forgotten in the history of Paraguay, for it was there that nearly all the victims of Lopez perished, and under tortures, too, inflicted with fiendish ingenuity.

Daily I saw men tortured in the *capo de uruguayana*, of which more hereafter; others, and women, flogged, many of them to death, or shot or bayoneted in the most cruel way, during the months of July, August, and September, all of them charged with treason and rebellion, but quite innocent of those crimes. More than seven hundred of them were slaughtered altogether.

On arriving there I saw Mr. Stark, a kind old gentleman and a British merchant. He had resided in Asuncion many years, and was greatly esteemed and respected. He looked very ill and dejected. I was not allowed to speak to him, but I saw him flogged and often treated very brutally in other ways. He was shot, with a batch of other prisoners, about the beginning of September. John Watts, another Englishman, who was chief engineer of one of the gunboats, and Manlove, an American, were shot on the same day. To the best of my knowledge only two Englishmen were shot by Lopez, the other, Mr. Oliver, died from starvation and exposure, as did one of my companions the day after our arrival.

Old Sortera held out through months of starvation and suffering, but died eventually at Villeta of ague.

At San Fernando were hundreds of other prisoners in the same deplorable condition as ourselves, but as we were not allowed to speak to each other, we could not compare notes, and it was only after my release that I learned that they were all charged with treason.

Our so-called prison was only a piece of ground about twenty yards square, staked out, and with the sky for a roof. The mode of securing us was equally simple, but dreadfully painful. To one of the stakes a hide rope was made fast; prisoner No. 1 lay down on his back and loops were knotted fast around both ankles; then No. 2 lay down two yards off and was tied to the same rope. This was repeated until the row was full; then another was commenced in the same way, and so on. The ends of the ropes were secured to other stakes, and they were stretched by the full strength of two or three men until they were as taut as harp-strings. We suffered terribly; my ankles were soon covered with sores, and almost dislocated by the strain on them. In each prison space lay about fifty men. This mode of securing prisoners is called "*el cepo de lazo*," or rope stocks. Thus we lay night and day, with the exception of a short time in the morning, when we were marched into the woods under a strong guard. Sometimes those who tied us up were more merciful than others, and did not strain the rope so tight, but frequently the agony was dreadful beyond expression.

A chain of sentries surrounded us, and used to kick and thrash us as they pleased. They had orders to shoot or bayonet any who tried to escape. A request but for a little water was often answered by a severe flogging.

There we lay exposed to the burning sun, to the rain and storm, and almost maddened by the biting and crawling of the thousand insect plagues of the tropics, with very little food, and that only the offal of the beasts killed for the troops. We got no salt and no tobacco, which was the greatest privation of all.

Of the prisoners many were taken out to be examined or tortured, others to be shot. I never saw any one undergoing the torture, for it was always inflicted behind the bushes or in the huts of the judges.

I saw an Argentine officer taken away one day, and when he returned the whole of his body was raw. The next morning, when we were loosened, I pointed to his back, but did not speak; he let his head fall on his breast, and with a stick wrote in the sand one hundred. From that I gathered he had received a hundred lashes with a cow-hide, or else with one of the creeping plants (I think they call them lianas) which grew in plenty on the trees around us. That afternoon he was sent for again, and when he came back he wrote two hundred. The next day he was shot.

The prisoners were of all nationalities and of all grades and positions, but with the heat, wear and tear, the rain and wind, they were soon all alike, nearly naked. And our guards used to offer us pieces of bread or a few spikes of maize for our clothes, and, suffering from hunger as we did, we were glad to purchase a day's life at the price of a coat or a shirt. Amongst them were many women, some of them belonging to the best families in the country; some quite old and gray-headed, others young and pretty, especially Dolores Recalde, a very tall and beautiful girl, and Josefa Requelmè, a handsome woman, with very fine eyes. They suffered much, poor creatures, though they had little A-shaped straw huts to shelter them, as did some few of the other prisoners of the highest class, and used to weep piteously over their miserable fate. * *

For my part I do not believe that there was any conspiracy at all, unless on the part of the President himself and some of his tools to rob foreigners of their money. * *

The next day Major Serrano came again and asked me if I had considered the matter, and if I would confess all I knew. I replied that I knew nothing, and requested that I might be confronted with my so-called accomplices.

Serrano became furious, and at once ordered the officer of the guard to put me into the *uruguayana*. It is said this torture was invented in the days of Bolivar, the South American liberator, and hence its old name of "cepo boliviano," changed by Lopez to "cepo Uruguayana" after the surrender of Estigarribia there in 1865.

The torture is as follows, and this is how I suffered it: I sat on the ground with my knees up; my legs were first tied tightly together, and then my hands behind me with the palms outward. A musket was then fastened under my knees; six more of them, tied together in a bundle, were then put on my shoulders, and they were looped together with hide ropes at one end; they then made a running loop on the other side from the lower musket to the other, and two soldiers hauling on the end of it forced my face down to my knees and secured it so.

The effect was as follows: First the feet went to sleep, then a tingling commenced in the toes, gradually extending to the knees, and the same in the hands and arms, and increased until the agony was unbearable. My tongue swelled up, and I thought that my jaws would have been displaced; I lost all feeling in one side of my face for a fortnight afterwards. The suffering was dreadful; I should certainly have confessed if I had had anything to confess, and I have no doubt many would acknowledge or invent anything to escape bearing the horrible agony of this torment. I remained two hours as I have described, and I considered myself fortunate in escaping then, for many were put in the *uruguayana* twice, and others six times, and with eight muskets on the nape of the neck.

Señora Martinez was tortured six times in this horrible way, besides being flogged and beaten with sticks until she had not an inch of skin free from wounds.

At the expiration of two hours I was released; Serrano came to me and asked if I would now acknowledge who was to be the new President. I was unable to speak, and he went on to say that I had only been kept in the *cepo* a short time owing to the clemency of his excellency Marshal Lopez, and that if I did not then divulge it I should have three sets of irons put upon me, eight muskets in place of six, and kept in much longer. I was so utterly exhausted and so faint that at the time his threats made no impression on me. Afterward I was taken back to the guardia, and as a great favor I was not tied down that night.

The next day, July 25th, Serrano again called me up, and asked me who authorized me to mine the railway bridge at Ibicuy, a rivulet about three miles out of Asuncion. I replied that I had never heard of the bridge being mined, and that I knew nothing of such falsehoods.

On the 26th Serrano came again, accompanied by an officer named Aveiros. The latter asked me what masonic grade I had. I replied that I was not a Mason, but that on one occasion I went to the house of an Italian named Tubo, who was endeavoring to establish a lodge on false pretenses and mere moonshine.

Aveiros said, "Do you know that we have Tubo here?" "No; how should I?" Serrano said, "We will have you face to face;" and Tubo was brought to the hut. The examination was conducted by a young Paraguayan lawyer, who had been some years in England, named Centurion. He asked me, pointing to Tubo, "Do you know that man? Do you know that he hates you?" He repeated the words, "Do you know that he hates you?" in English, as I did not understand it when said in Spanish. I said, "I

wish to explain in English, as you (Centurion) understand it perfectly." He said, "There is no need to grant your request, as you speak both Spanish and Guarani sufficiently well." I said that I certainly ought to hate Tubo, for he had got a great deal of money out of me on false pretenses, and had cheated me in the masonic business.

Tubo then said that I had signed a paper consenting to form one of his masonic society. This I denied, and then Centurion asked Tubo if I had signed such a paper. Tubo hesitated, and said, "I think he did." Centurion said angrily, "Your thinking is of no use; did or did not Alonzo Taylor sign the paper?"

Tubo became more embarrassed, and could give no answer, so I told them that the whole affair was an imposition. He was dismissed and I never saw him again, and heard that he was shot.

After Tubo left, Centurion questioned me about my countrymen, and why some of them would not sign fresh contracts. I replied in Spanish, "*Cada hombre tiene su asiento, y cada persona conoce sus intereses*," (that is, every man knows his own interests best.) Serrano and Aveiros together: "No, no, Alonzo, that won't do. You know why they will not renew their contracts." I replied, "I do not, but I do know that we Englishmen are heartily tired of the war, and the reason why we went to the American legation was, because there being no English consul in Asuncion we thought that we might get protection there until we could leave for England. My other object in going there was in order that Mrs. Taylor, who was near her confinement, might have the benefit of Mr. Masterman's assistance, as there was no other medical man in Asuncion; besides, I knew Mr. Masterman."

Centurion: "Indeed! then it is your opinion that the 'niggers' will take the town, and that you may be able to serve them."

I replied, "No; I have always been faithful to his excellency, and we have all done our duty, but are sick of the war and want to leave the country."

Serrano: "You were once a good servant, Alonzo, but for some months you have behaved very badly."

I was then taken back to the guardia and put in the lashings as usual, with strict orders to speak to no one.

It is useless to attempt to describe the miseries of our daily life in San Fernando, one unvarying round of privations, fresh prisoners, punishments, and executions. Not a day passed but some of us were taken out to be beaten, tortured, or shot. The cries of those being flogged were heart-rending. Two Orientales I saw flogged to death; and when young Capdavilla was shot he was black and blue from head to foot from the blows inflicted on him.

There were several ladies among the prisoners; they were flogged in the huts, but we could hear their cries,

Some few of us were lucky enough to get a piece of hide to lie on at night and make a shelter of by day. Only those who have lived in a tropical country can understand how trying it is to lie in the burning sun unsheltered.

We had very little food, and that chiefly offal; when it rained, which it did very often, we got none whatever; I was always hungry.

I am sure I am below the mark in stating that three hundred and fifty prisoners were shot during our stay at San Fernando.

The first execution I have any record of occurred on the 4th of August, when about forty-five were shot. Amongst them the two Susinis, and another Italian named Rebaudi. Those who could not walk were taken in carts, the others marched down two by two in irons. Then a volley and a few straggling shots gave us food for meditation. If the victims had good clothes on we saw the guard and the lower grade of officers come back wearing them.

The exposure to wet we suffered and want of food brought on rheumatism, ague, and dysentery, of which many died. Indeed, it seems almost a miracle to me that any survived such privations.

I cannot recollect the date when the army commenced their retreat to Villeta, but it was in September, but I shall never forget what we suffered on the way.

Before starting our irons were taken off, but we carried them with us, and we were allowed to talk together on the march; at night we were put in the *cepo de lazo* as usual. I counted about two hundred and sixty prisoners, fourteen of them foreigners, the rest Paraguayans. Among the former I remember Señor Cauturo, an Argentine and a great friend of Stark's; Fülger, a German watchmaker; Harmann, also German, and married to a Paraguayan; Lieutenant Romero, an Argentine; Captain Fidanza, Italian; Leite-Pereira, Portuguese; Segundo Bello, Argentine; Batolomé Quintara, Argentine. Among the latter were four ladies, Doña Juliana Martinez, wife of Colonel Martinez, who, after the evacuation of Humaità, surrendered to the enemy with his five hundred men, reduced to skeletons by fatigue and want of food; Doña Dolores Recaldè; the Señoritas de Egusquiza, two aged spinster ladies, sisters of Egusquiza, formerly Lopez's agent in Buenos Ayres. Two bullock-carts were dragged with us, supposed to contain the sisters of Lopez.

We finished our journey of one hundred miles, in spite of the difficulties of the road and our exhausted condition, in seven days; I mean as many of us as survived. Señora Martinez walked the whole distance, although her body was covered with wounds, her face blackened and distorted, and with a raw place on the back of her neck the size of the palm of my hand; for this poor lady had been put six times in the *uruguayana*, as I have said. She was, until her arrest, most intimate with Madame Lynch; but she was then selfishly abandoned by her once affectionate friend, and left to her dreadful fate. When I first saw her she was an extremely pretty young woman, and had reached but her twenty-fourth year when executed. She often spoke to me on the march, for companionship in misfortune makes us all equal and confidential, and Doña Juliana told me all her sorrows. She was very anxious to know if a large black mark she had over one of her eyes would disappear, or if it would disfigure her for life. The latter was the case; for when I saw her led out to execution on the 16th or 17th of December the mark was still there. Her only crime being the fact that she was the wife of a gallant officer, who had been abandoned by Lopez, and was compelled to surrender through starvation!

We got very little food on the road; for it was only when we had to get out the way, to let the troops pass, that we could find time enough to cook the wretched meat they gave us.

I saw two old men stuck fast in the mire, and left there to die of starvation or to be devoured by the vultures, which were already flying around them.

We arrived at Villeta early in September, and there we were placed, as before, in the open air and in the stocks. One day I saw Mr. Masterman brought in as a prisoner in irons, and a man named Bliss, an American, with him; but they did not long remain in the same guardia. I did not dare to speak to him; and I saw him one day with his face bloody, so I suppose he had been tortured.

Soon afterward Mr. Treuenfeld, the German telegraph engineer, was brought in a prisoner. He did not recognize me; but at night we lay near each other, and he said, "I shall have plenty to tell you about Washburn (the American minister) and the English gunboats: but I cannot do so now, for I am not allowed to talk."

On the 16th or 17th of December, Col. Marco, formerly chief of police, rode up to the guardia with several other officers, and he read the following names from a piece of paper.

Sosa, (a priest.)

Juliana Martinez. (Poor lady! she could scarcely stand, she was so emaciated and weak.)

Dolores Recaldè, (a tall and once a very beautiful girl.)

Luisa Egusquiza. (This poor old lady must have been sixty years of age, with thin grey hair, and a very benignant and venerable look. Her sister had already died, alone in her wretched hut.)

Benigno Lopez, (brother of the president.)

José Bèrges, (formerly minister for foreign affairs.)

—— Bogado, (dean of the Cathedral of Asuncion.)

Colonel Allèn, (one of the commanders at Humaita. He had lost an eye in trying to commit suicide.)

Simon Fidanza, (an Italian merchant captain, who sold his ship to Lopez, and was not afterward allowed to leave the country.)

Leite-Pereira, (Portuguese consul.)

Each answered to his or her name by walking forward and standing in front, until a line had been formed and the list gone through; then they were marched off with a strong guard in front and rear. The sad procession was closed by three priests carrying chairs, who would confess the condemned at the place of execution. We never saw them again. At the expiration of about an hour a volley was heard, then a dropping shot, and all was over. The guard came back, one old soldier wearing Captain Fidanza's surtout, and the officer the uniform coat of Leite-Pereira, with its gilt buttons.

Perhaps some of these men may have deserved death. Captain Fidanza was said to have denounced the rest; but that was after he had been tortured, and he soon became insane. But surely there can be no excuse for such a revolting crime as shooting defenceless and innocent women for the faults, real or pretended, of their husbands, brothers, and lovers. Whether there was conspiracy, time will show; but if the so-called conspirators were convicted on no better evidence than that on which I was kept a prisoner for five months, they must be regarded only as victims and martyrs. The truth will out some day, and then President Lopez will take his proper place in history, as a hero or a fiend.

On the 21st of December we were released from the stocks, as usual, at 6.30, but at once tied down again, because the Brazilians had got our range, and shell were flying over and close to us, and the Paraguayans hoped to see us thus got rid of. But I felt no fear, and was quite resigned; for the shocking misery I had suffered for five months had blunted, indeed, nearly obliterated, all feelings, moral and physical.

Four days afterward Lopez and Mrs. Lynch rode through the guardia, with several officers, and I think she drew his attention to us. We were ordered to stand in a row, and he came up to us, and asked, "Are you all prisoners?" We replied, "Yes," and then Mr. von Treuenfeld appealed to his excellency, who asked him why he was there. Mr. Treuenfeld said he did not know, and the President told him he was at liberty, and might retire. I then approached, and said I should be very grateful for the same mercy. Lopez asked me who I was, and affected great surprise when he heard my name, and said, "What do you do here? You are at liberty." Then the other prisoners, ten in number, came up and received the same answer. We remained with the officer, but without a guard, until the 27th of December, when, at five o'clock in the morning, heavy firing commenced, round shot and shell flew among us, and shortly afterward we were charged by Brazilian cavalry. I was slightly wounded by a rifle-ball in the shoulder, but succeeded in escaping to the woods, accompanied by two Argentine gentlemen. But many of the prisoners were too weak to move, and they were all killed.

Later in the day we fell into the hands of some Brazilian soldiers, who took us before the Marquis de Caxias. He questioned me, and told me to go where I pleased. I said I was too weak to walk, and one of his officers, Colonel G——, who had been a medical man, was kind enough to take care of me. I cannot express how much I owe to him.

I was a miserable object, reduced to a skeleton, and enfeebled to the last degree. When I was at Luqu , I weighed one hundred and seventy-eight pounds; and when I went on board the gunboat "Cracker," only ninety-eight pounds.

After recruiting my strength for four days at Lomas, I left on horseback for Asuncion. I suffered terribly on the road; for I had scarcely any flesh on my bones, and had not strength enough to keep myself in the saddle.

There I arrived at last, but so ill that I could not speak for some days; but another Brazilian officer was very kind to me, and also Major Fitzmaurice, an English officer in the Argentine service.

My wife and children I have not yet seen; but the French consul told me that they were in the cordilleras, alive and well. I am daily getting stronger and gaining flesh, but I look like a man just recovering from yellow fever; and as I dictate this to Mr. Shaw my memory sometimes seems to leave me, I cannot fix my attention; but I hope I shall soon recover my health, both of mind and body.

BUENOS AYRES, January 20, 1869.

APPENDIX B.

Captain Don Adolfo Saguier has furnished us with the following details relating to the acts of barbarity perpetrated by Lopez.

He (Lopez) caused the prisoners to receive five hundred, a thousand, and even two thousand lashes before shooting them.

Dr. Carraras was flogged thus most barbarously. Captain Saguier, who was placed within sight of Dr. Carreras, and, like him, in fetters for five months, saw the punishment inflicted, and speaks of his shrieks, wrung from him by the blows inflicted with a hide rope and with sticks.

B rges was also flogged before being shot. Don Benigno Lopez (the President's younger brother) before execution was almost cut to pieces. Captain Saguier saw it done, and knows the executioner who flogged him, he is named (Major) Aveiros, and was formerly a secretary in the internal revenue office.

The Marquis de Caxias holds as prisoner a captain of cavalry, named Matios Goigur . It was he who commanded at the execution of Benigno Lopez, General Barrios, the Bishop, Dean Bogado, the wife of Colonel Martinez, Do a Mercedes Egusquiza, Do a Dol res Recald , and others, whose names he does not remember.

This took place on the 21st of December, 1869, and their execution was witnessed, by order of Lopez, by his two sisters, Inocencia, wife of General Barrios, and Rafaela, widow of Don Saturnino Bedoya, (who had been put to death, as Lopez had directed, by the prolonged infliction of the torture called the "*cepo uruguayana*,") and his brother Venancio. They were, after the execution was over, shut up in a large bullock-cart and sent away, but he does not know whither.

The greater number of the prisoners suffered tortures of all kinds before being made away with, such as the *cepo uruguayana*, flogging, and hunger. Many of those unhappy men, who had been put to the torture, died, sometimes five or six a day, from the agony or from starvation.

APPENDIX C.

Barbarous order about desertion.

"Long live the republic of Paraguay!

"CAMP IN PASO DE LA PATRIA, *March 25, 1866.*

"By order of his excellency the marshal president of the republic, and commander-in-chief of its armies, the following punishments are in force:

"For all those who fall asleep on guard:

"1. The officer to be arrested, and reported to his excellency.

"2. The sergeant to receive fifty lashes standing.

"3. The corporals to receive forty lashes.

"4. Privates to receive twenty-five lashes each.

"In case of desertion of a soldier when detached from his company:

"1. The rank and file next to him on each side to receive twenty-five lashes.

"2. The officer in charge of the company in which a desertion takes place, to be arrested and reported to the supreme government.

"3. The sergeant to receive fifty lashes, and do duty in his company for one month as common soldier and one month as corporal; at the expiration of these two months to be reinstated to his former rank of sergeant.

"4. The corporals to receive forty lashes in circle, and do duty in their companies as common soldiers for two months, after which to be reinstated to their former rank of corporal.

"This order is applicable to troops or detachments told off from their respective companies for any work or employment under the charge of their respective officers.

"F. I. RESQUIN."

DOCUMENTS EXPLAINING THE DEPOPULATION OF PARAGUAY.—WOMEN DRIVEN ABOUT IN HERDS.

"Long Live the republic of Paraguay.

"CAMP IN PIKYSRY, *December 18, 1868.*

"To Captain Bernardo Amarilla:

"By supreme order I dispatch to your quarters, under charge of Ensign Ignacio Romero, and thirty armed men, nine hundred women, who are to proceed in the manner to the Cerro Aruai, thence to Paraguari and Caacupé, on the other side of the Cordillera, with instructions to the commandant of the department of Caacupé to distribute them in the furthest districts of that part of the Cordillera, where they may be able to sow beans, andaices, &c. For this purpose you will forward this order to the commandants of Paraguari and Caacupé.

"May God preserve you many years.

"F. I. RESQUIN."

"Long live the republic of Paraguay.

"To the captain commanding the detachment of Yuquity, and the commandants of Paraguari and Caacupé:

"By supreme order I dispatch another batch of six hundred and forty women belonging to Villeta, and one hundred and seventy belonging to different districts, in order that, as on a previous occasion, they may be safely escorted by thirty cavalry soldiers, well armed, under charge of an officer, from Paso Yuquity to the Cerro Aruai and Paraguari; and if there should be no available forces at either of these points, as far as the district of Caacupé, with instructions to the commandant of the latter place to distribute them, as soon as they arrive, through the other central districts of that Cordillera, and see that they be usefully employed in agriculture or other occupations by which they may provide for their own sustenance; for this purpose they are to be allowed whatever assistance may be at hand.

"F. I. RESQUIN."

HORRIBLE.—SHOOTING FOR CONVERSING AND FLOGGING FOR LISTENING.

Deposition of Private Candido Ayala, of the grenadier company of the 3d battalion.

"Long live the Paraguayan republic.

"CAMP IN SAN FERNANDO, *April 4, 1868.*

"Deponent states that being last night round a camp fire, with other soldiers of his company, he was relating to them the sayings and offers of the enemy, which he heard

when doing duty in the vanguard, under the orders of Major Benite Rolan, whenever they came within sight of each other. On one occasion some of the enemy said, 'Come among us; throw away your ponchos of hide; here we live well, and you shall want nothing; forget your president, that old big-bellied Indian.' At this moment the commanding officer, who was near, overheard these words, and immediately rebuked him, saying, 'Be silent; who has authorized you to refer the words of those wretches, and what can they say or impute to our illustrious marshal, who is the handsomest and most graceful sovereign in all the American Continent?' Deponent was then asked by said officer what induced him to refer such things, which were nothing but injurious personal attacks upon our lord president; and he said that he repeated what he had heard without any evil thought, not knowing that he was incurring blame.

"The undersigned ordered deponent to be put into irons and imprisoned in the guard-house, where he at present lies, and reports the circumstance to the commanding officer of the division.

"JULIAN D. GODOY."

"CAMP IN TEBICUARY, April 4, 1868.

"By order of his excellency the Marshal President of the republic and commander-in-chief of its armies, the accused, Private Candido Ayala, third battalion, is sentenced to be shot, and each of the soldiers of his company who listened to his conversation are to receive fifty lashes. The execution of this sentence is intrusted to the major commanding said corps, who, in reporting its due fulfillment, will state the names of those who have been flogged.

"F. I. RESQUIN."

"CAMP IN SAN FERNANDO, April 4, 1868.

"In compliance with the above supreme order, which I have received with due respect, I ordered sentence of death on Private Candido Ayala, third battalion, for the cause above stated, to be carried out this very day; also, that fifty lashes should be applied to Sergeant Faustino Sanabria, Corporals José Figieredo, Blas Giminez, and Privates Baltazar Medina, Matilde Pino, Tomas Duarte, Cecilio Maciel, and Canuto Galeano, who all were listening when Ayala was speaking so irreverently. Private Canuto Galeano was, by mistake of the corporal, punished with only forty-nine lashes, and I ordered the number to be completed to fifty, which being done, he turned around, as if offended, asking to be punished more, if the number was not yet completed, for which display of pride I had him punished with twenty-five lashes more, and placed in the stocks.

"All of which I respectfully beg to report to you.

"JULIAN NICANOR GODOY."

APPENDIX D.

[Translation.]

Statement of Don Matias Goiburú.

At the headquarters of the Argentine army in Trinidad, February 12, 1869, his excellency the commander-in-chief having ordered that his secretary shall take some statements, according to the tenor of the note which heads this document, I caused Don Matias Goiburú to appear before me, who, having first taken an oath, I interrogated in the following manner:

Questioned as to his native country and employment, replied that he is a Paraguayan; that he has been a captain in the army of Lopez; that at present he is adjutant of these headquarters.

Questioned when and in what manner he left the service of Lopez, replied that he left the army of Lopez on the 27th of December; that he did so voluntarily, availing himself of the confusion of the battle which had already begun.

Questioned concerning the treatment which the prisoners of war received from Lopez, and ordered to state in particular what he knew upon the subject, specifying, if possible, some cases, replied that he can answer with full knowledge, but that he has to begin from the 3d of November, 1867, because he is ignorant of what happened before that date. He does not mean to say, however, but that, by public notoriety, he knew that prisoners had been treated with cruelty before that time; though in the reply to that question he will say that the treatment which prisoners received, except in a very few cases, was cruel and most atrociously barbarous; that it is necessary to have witnessed what those wretches suffered in order to reveal it; that in the battle of the 3d of November, in Tuyuti, there were taken from two hundred to three hundred prisoners, of whom more than one hundred were staked out and whipped with cords, and forty-five were shot; that in order to consummate this cruelty a mutiny in the encampment was

invented by a man called the Viscount of Porto Alegre; that the person who did not declare all that was demanded of him by the prosecuting attorney, was invariably staked out and flogged until the confession which was demanded was obtained; that the beginning of this arose in the flight of one of the prisoners, a Brazilian negro, who was taken as he was leaving the entrenchment, and who, being interrogated and tormented, said that he was trying to escape in search of food, since he was dying of hunger. After new and horrible chastisements he declared that he was going away in order to bring the Viscount of Porto Alegre, that he might conduct a movement that was going to break out among his companions, with the object of forcing the guard that kept watch over them, kill them, and start for the Brazilian encampment, on the route toward which they were to be protected by the said viscount; that he knows this, because he, the deponent, was charged with the custody of those wretches; that on more than one occasion, with cruel grief of his own heart, he has been obliged to be present at, and even to superintend, chastisements which are reprobated by humanity and civilization; that of these same persons many died—some from misery, others on account of the scourging which they suffered, and many being shot on different occasions; that the deponent believes that the fortune of the former was preferable to that of the latter, because they at least gave up their life to the tyrant without having suffered the horrible martyrdom of those who, at a later time, the companions of their misfortune, were victims; that Lopez had established such barbarous responsibility, that the offense of one had to be expiated by the blood of his companions; that at the time of which he is speaking the officers among the prisoners of war enjoyed a relative liberty; that in consequence of a Brazilian captain, named Correa, having escaped, (who was apprehended the day after his disappearance,) all the officers were put in strict imprisonment, with heavy bars and fetters, and placed on half rations; and that after prolonged suffering three of these wretches died of misery, and above all of hunger.

Questioned: What was the treatment which prisoners of war received after the period you have mentioned? Also, do you know of Lieutenant Colonel Don Gaspar Campos, or any other officers, and state what was their end? State also whatever you know which is not relative to this question. Replied: The treatment received by prisoners in the periods later than that which is before mentioned, became every day more and more cruel and barbarous; and as the position of Lopez became greatly difficult, he multiplied chastisements and diminished the food of the prisoners, and loaded them with every species of suffering; that, from the time Lopez abandoned Humaita, the officers who were in charge of the prisoners had orders to shoot every one who became tired out in the marches; and that he knows that in the marches made from San Fernando to Lomas, there were shot or lanced many who had the misfortune not to be able to walk, and weighed down by misery, suffering, and disease; that in later times every person who deserted to the Paraguayans, or was taken prisoner, whether officer or soldier, was flogged until he declared whatever was demanded of him; and that many have died through the effect of the scourge with which they suffered, others having been shot afterward; that he knew the Lieutenant Colonel Don Gaspar Campos; that he knows that he arrived at Villeta; that when he saw him last he was very much attenuated, and he has heard it said that he died of misery lately; that he knows that Lieutenant Morillo, of the Argentine artillery, was put to death by lancing; that many others were also sacrificed whose names and the circumstances of their death he does not know.

Questioned concerning the executions ordered by Lopez; to state the case, names, the circumstances of nationality and sex; replied that he knows perfectly that Miguel Elorduy, Florencio Uribe, José Elorduy, Bernardo Artaza, Miguel Elorduy, (sobrino,) Lucio Echavarrioste, Ignacio Galarraga, Francisco Lotera, Martin Madrenas, Eujenio M. Aguirre, Francisco Vidal y su yerno, Enrique Reina, Pelayo Azcona é Isidro Martinez, lo mismo que Inocencio Gregorio, all Spaniards, died in the camp of Lopez, the chief part of them in consequence of tortures received, or from misery; also, fusilados, Lucio Echavarrioste, Francisco Lotera, Francisco Vidal, Enrique Reina é Isidro Martinez, who died by being lanced, because they were unable to continue their march; and Gustavo Hamann, Emilio Neuman, N. Hoffman, Carlos Urrich, all Germans, died by the same inhuman treatment by the order of Lopez; and the English subject, Guillermo Stark, shared the same fate. And in the same manner Lassere y los hermanos, Duprat y su hijo, Valet, Anglade y su hijo, y los italianos Nicolás Troya, Antonio Susini, Ejirio Terreo, Antonio Rebaudi, Nicolás Susini, Agustin Piaggio, Simon Fidanz, Pio Pozzoli y N. Ravizza, así como E. Tubo y H. Grillo, Que fusiló á los bolivianos doctor Tristan Roca, doctor N. Vaca, doctor N. Gutierrez y varios otros. Que hizo matar á los portuguese Candido Vasconcellos, Américo Varela, Antonio Vasconcellos, Correia Madruga, all Frenchmen, were put to death, and various others whose names have escaped his memory. Also the Orientales Antonio Nin Reyes, doctor Antonio de las Carreras, Francisco Rodriguez Laracha, Federico Anavitarte, N. Caravia, Coronel Laguna y muchos otros, y con los argentinos, Coronel Lotera, Coronel Virasoro, César Gondra, Coronel Martinez, Sargento Mayor Lucero, Capitan Goaycochea, Coronel Telmo Lopez, Capitan Garay, Enrique

Garcia, Desiderio Arias, N. Barrasa, Mayor Carranza, Aureliano Capdevila, Sinforos o Cáceres é hijo, N. Gauna, José Cateura, Ramon Capdevila, N. Palacios, Ventura Gutierrez y Coriolano Marquez, were put to death by order of Lopez. That besides these there were many others of the nationalities referred to whose names he does not know; and besides those almost all the prisoners of war of the allied army have perished; that he knows of these facts because he himself has been the prosecuting attorney of various trials, and that he states that these prosecuting attorneys proceeded under the iron pressure of Lopez; that they had always at their side special inspectors, who gave them the orders upon which they were to act.

Questioned what has become of the property, both real estate and movable, of those victims; replied that he has heard that they have been seized by order of Lopez; that he cannot give the details, because he and other prosecuting attorneys were only allowed to participate in the trial of the cases, and always under the immediate direction of Lopez; that the only thing which he can state is that the money and the property which those accused persons had with them was taken away from them, and was never returned to them, or to their relatives.

Questioned concerning the tortures and the shootings of his own countrymen and women, ordered by Lopez, and ordered to state what he knows upon the subject, replied that, with very rare exceptions, Lopez has sacrificed the best and most decent portion of the population of Paraguay; that on some occasions he formalized a trial from which there resulted whatever he wished; but that, almost universally, he flogged and shot the notable persons without form of trial; that out of his own family he shot his brother Benigno, and his two brothers-in-law, Barrios and Bedoya; and, finally, that this monster is exterminating, or would have exterminated, all the inhabitants of Paraguay if he had time to do it; that he has notes, and, if called upon again to give a statement, he can give a detailed specification of the facts, whose bloody cruelty will appal.

At this stage of the examination it was determined to suspend this deposition, with the charge of following it up later if it should be necessary. Having read the statement to the deponent, he confirmed and ratified it, and signed it with myself.

MATIAS GOYBURÚ.

AUGUSTIN MARIÑO, *Secretary.*

Testimony of Vice-Admiral D. D. Porter, U. S. N.

WASHINGTON, D. C., November 23, 1869.

Vice-Admiral D. D. PORTER sworn and examined.

By Mr. SWANN:

Question. Please state what is the practice of the Navy Department in regard to giving instructions to officers in command of squadrons abroad; whether or not a naval officer in charge of an important station like Brazil is furnished with instructions from the Navy Department when he is sent out there.—Answer. They most always go with special instructions from the Secretary of the Navy, and when special instructions are not given them the officers whom they relieve are directed to turn over to them the instructions they have heretofore received, and they are to be governed by those instructions. That is the custom in all cases.

Q. Where an admiral goes out in that way, and unforeseen contingencies arise which make it necessary for him to act upon his own judgment, is he authorized by the department to exercise his best judgment in any course that he may think it necessary to pursue, or is he to defer to the opinion or wishes of the diplomatic agent of the government at the station where he may be?—A. I think the instructions require an officer to refer all cases, where there is any doubt as to what action he should take, to the head of the department, and not to take any action himself that may jeopardize the peace of the nation.

Q. They are not authorized to break a blockade, or force the military lines?—A. No, sir; not without specific instructions, and we have rules and regulations which state how an officer shall act in cases of that kind. They are called the "Regulations of the Navy," and I will furnish the committee with a copy of them. The new regulations, which have been or are about being issued, direct that an officer in command of a squadron, when called upon by a minister abroad to do anything that might involve the peace of the nation, may disregard any such advice, and is not to be governed by it unless he has instructions from his department. The officers are not encouraged to take such action, but, on the contrary, to avoid it as much as possible. The old instructions are not very full on that point, but instructions have been given to officers to refer all such matters to the Navy Department, and from that department they are taken to the State Department. We look upon it that a minister is sent abroad to pre-

serve peace, and not to make war; and naval officers, having so much intercourse with the world, consider that they are, perhaps, as well informed about diplomatic matters as persons who have just entered upon their diplomatic duties for the first time. Now in England it is different. There persons are educated for the diplomatic profession, and a British naval officer, in many cases, is put under the orders of the minister. But in case we had any difficulty with a foreign power the Navy Department would instruct the admiral at that point to co-operate with the minister in that particular case, but in no other case.

Q. How has that system worked heretofore? Do you know of any serious collision having occurred in consequence of it, between the naval commanders and the diplomatic agents of the government?—A. I do not recollect any having occurred except this present case in Paraguay.

Q. I understand you to say that in the event of a collision or a difference of opinion between the diplomatic agent and the naval officer, under these instructions the naval officer is allowed a wise discretion?—A. He is to exercise his own judgment; responsible, of course, to the head of his department. If he were to follow the advice of a minister or consul, and involve the country in a difficulty, he would be held responsible and be tried by court-martial; the plea of their having advised him to take such a course would not relieve him from his responsibility. If I was in command of a squadron I should look to the head of the department for instructions upon all doubtful points. If ministers abroad and admirals were allowed to put their heads together and involve the country in a war, we might be in wars all the time. But the Navy and State Departments have wisely kept these matters in their own hands, and under their control. The Navy Department is naturally subject to the State Department, for the Secretary of State is always supposed to be acting under direct orders from the President. When the Secretary of State wants anything done by the Navy Department, it is not necessary for him to say, "It is by order of the President," but it is done instantly. If he says, "I want a vessel in New York at a certain time for a certain purpose," it is done without further question. This has been done within the last ten days. The Secretary of State says: "I want a ship at a certain time; can it be got ready?" "Yes,"—or two or three ships, as the case may be. It is tendered to him at once. It is supposed to be an order from the President; therefore every order that the Navy Department gives an officer of the navy abroad is supposed to emanate from the State Department. Now, when Admiral Poor went down to Havana to take command of the squadron there, he did not get the views of the Navy Department, but he went to the State Department, and there received the views of the Secretary of State; and when he came back to the Navy Department his orders were written out. I wrote them out myself, exactly how he was to act in all this matter, and he is not called upon in any case to co-operate with the consul in Cuba, who has partly ministerial powers, and this is so in all cases. That is about as good an idea as I can give you.

By Mr. WILKINSON:

Q. Suppose an accredited minister of the United States, acting under instructions from the State Department, should call upon an admiral in command of a squadron to aid him in the discharge of a certain duty in relation to which the instructions of the Navy Department to the admiral were silent; what would be his duty?—A. He could not do it unless the Secretary of State sent those instructions through the Secretary of the Navy. Here is a case in point. The President directed that all those persons who had gone from the South, after the war, into Brazil, and were there in a destitute condition, should be sent home by vessels of war. The Secretary of State transmitted that order to the Secretary of the Navy, and the thing was done, except in one instance, where an officer declined taking these men on board his vessel at the request of the minister or consul, as he had received no instructions from the admiral commanding; and the department held him blameless because the instructions had not been sent to him.

Q. Where a squadron is stationed near a foreign court at which we have an accredited minister, is the officer in command intrusted with any diplomatic powers?—A. None whatever. He cannot have any diplomatic powers except by express authority from the Navy Department or the President. The only authority given to a naval officer is authority to exercise consular powers in the absence of a consul; not diplomatic powers.

Q. What is the purpose intended by keeping our squadron at Rio, for instance, on the La Plata?—A. For the protection of American citizens and sailors more for moral effect than anything else I suppose, and to have some object for keeping the navy up.

Q. Suppose a minister calls upon the navy to protect the rights of an American citizen who had been wrongfully imprisoned?—A. Well, the admiral would have to be the judge of the matter. He would have to exercise his judgment, because if he did anything to involve the country in a war he would have to take the responsibility and might be punished for it. He would have to get some instructions from the Navy Department. The admiral would probably argue this way: "Well, this thing can-

not be hurt by a little delay, and by being premature I may commit some rash act and involve the country in a war, and they will not thank me for that, for people never thank anybody for getting them into a war." I think soldiers and sailors know pretty much what the result of wars are, and are less apt to run into them than other people.

By Mr. SWANN:

Q. I understand you to say, from your recollection, that this system has worked well heretofore—that is, the independent relations of these officers; and that you do not know or cannot recall any difficulty of a serious character arising from it, except in this case?—A. This is the only case that I recollect where any serious trouble has arisen. I have myself been at a great many stations where ministers have resided, and I never knew any of them attempt to exercise any authority over a squadron or the admiral commanding the squadron who had instructions from his department. And there is less reason for any misunderstanding between them now than formerly, since the establishment of mail steamers throughout the world and the increased facilities for communication by mail or telegraph. We now can hear from Brazil in twenty days, and a reply can be received in forty days. And I think an officer would prefer waiting much longer than that, rather than run any risk in involving the country in a war.

Q. Do you know whether Admiral Godon went out there with these general instructions such as you say the Navy Department usually gives officers in command of squadrons?—A. I suppose so; and to receive from his predecessor his previous instructions, and to conform to the general orders given to commanders, the rules and regulations of the navy. He was not sent out there for any special purpose other than to afford protection to American citizens, and to show the flag at various points.

Q. Are you acquainted with Admiral Godon's official record?—A. Very well; I have known him ever since I was a boy.

Q. What is his standing in the navy?—A. His standing is very high as an officer—as an able man. He is a great talker. He is really one of the cleverest men in the navy—I mean professionally and in point of intelligence. He is also well read in the law.

Q. You consider him an efficient officer?—A. Yes, sir; in every way, and as efficient in diplomatic duties as perhaps any officer in the navy.

Q. It was stated by General Webb that there was a rumor—I think he said—in the squadron, that Admiral Godon had a softening of the brain. He did not indicate any specific act which induced him to believe that report, still he did believe it, he says. I want to know from you whether there has been anything in his official relations with the department, or within your knowledge, that induces you to believe that the admiral has lost his balance?—A. No, nothing at all; nothing in the department. I have had a good deal to do with him in the last six months. He was under my command in the North Atlantic Squadron during the operations on that coast, and he was one of the most efficient officers I had. He is now in charge of this Spanish gunboat business. We put the matter under his special charge because of his intelligence, and because we thought him well calculated for that duty. The Secretary of State said he was worried about the matter and I told him he need not feel so about it; that we had great confidence in Godon, and that he would act according to his best judgment, and would see that the gunboats didn't get away. He said the President considered it a matter of great importance. "Well," said I, "so do I, and therefore leave it to Godon, because I have great confidence in his judgment;" and we haven't said a word to him since about it. He appears flighty, and yet he is a man of a great deal of mind—I expect as much as any man in the navy.

Q. Do you know whether or not, upon his return from Rio, the Navy Department approved of his conduct and sustained him in his action?—A. I am quite satisfied it did and the State Department also. And since then he has been detailed for this delicate duty, and put in command of one of our most important navy yards. That doesn't look as if he had softening of the brain.

Q. Do you know Admiral Davis?—A. Very well.

Q. What has been his record?—A. He is a very fine officer. He has commanded one of our largest squadrons, that of Brazil. He commanded very handsomely during the war on the Mississippi, and was promoted to the grade of rear-admiral for his gallantry during the war. He is a man of fine education and scientific attainments, and, professionally, I expect he is up to any officer in the navy.

Q. What is his present duty and position?—A. About the time he came home, the President had become very much interested in the subject of a ship-canal across the isthmus of Panama, and as Admiral Davis had given a great deal of attention to that subject, he was put on duty to get the information the government wanted. He is now engaged in getting up that information, and we are about fitting out a vessel to go there and commence the surveys; and it is on the information of Admiral Davis that the department will act. This shows the confidence the department has in him as an experienced officer and a man of intelligence. He is a man of more than ordinary

attainments. He is connected with a good many scientific colleges in the United States. He has been in charge of our Naval Observatory and Nautical Almanac. He has always been an important man on the coast survey, and the best description of the coast survey ever published was written by him.

Q. Do you know whether his conduct in Paraguay was approved by your department?—A. I think that is the feeling there. We are all satisfied he was perfectly right. Mr. Washburn, when he came home, read me some papers and said that Admiral Davis should be ordered home immediately; but I told him I did not know what the Secretary's views were on the subject. Mr. Borie was out of town at the time, and he asked me if I would repeat what he had said. Well, I didn't tell Mr. Borie what my opinions were on the subject; but he read the paper, looked it over, and said, "It strikes me that it is very singular that an officer should be recalled in this way without hearing his side of the case." He asked me then about Admiral Davis, and I told him all I knew of this case, and that I felt satisfied whatever he had done was done from the best of motives. I got a letter from him afterward, stating exactly all that occurred there. He didn't know then that the ship would be ordered home, and she was not ordered home for the purpose of bringing him before this committee—they had not asked for it at that time—but in consequence of the law of Congress which prevents our sending a ship out to relieve another vessel until that vessel has reached home.

Q. He was not recalled?—A. No, because the department felt that throughout this matter he had carried out his instructions thoroughly, and had perhaps prevented involving this country in a war with Paraguay. We felt that if we had a war with Paraguay that notwithstanding our ten guns to their one, we should come out of it very much humiliated; because we would be in pretty much the same condition as Brazil is now—chasing Lopez forever and never catching him. We sent an expedition out there some years ago, and if the Paraguayans had been at all combative they would have whipped it all to pieces.

By Mr. WILKINSON:

Q. Do you think it would be a cause of war for an American admiral to demand the right of going through a blockade established by a nation with whom we are at peace, for the purpose of conveying a minister to his post of duty; as, for instance, take this Paraguayan case, where our government had friendly relations with both parties, the allies and Paraguay?—A. No. I think the admiral would have the right to demand.

By Mr. ORTH:

Q. But if the demand was refused?—A. Then I should go, anyhow.

By Mr. SWANN:

Q. Being responsible to the head of your department?—A. Yes sir. It must be, however, for some good reason. If I had a minister on board and was ordered to take the minister to that place, I would take him there and obey my orders.

By Mr. ORTH:

Q. What would you do in the absence of any express orders?—A. I should go. That is the courtesy always extended to a minister. When a vessel goes up that way it is not even necessary for the commanding officer to give his word of honor not to give or receive information on either side; because no honorable man would repeat anything that he heard or tell what he saw, nor permit his crew to. He would not allow his crew to have any communication with the shore, so that they could obtain no information detrimental to the other party. If he did allow them, he would be responsible to his government. That ought always to be his rule of conduct. During the war, whenever an English vessel wanted to communicate with their representative in the confederacy, they were never refused permission. I think they could have demanded to go. They always asked permission, and it was never refused, and they frequently went on very foolish errands.

By Mr. SWANN:

Q. Suppose you knew that by breaking a blockade it would be viewed and treated as a *casus belli*; suppose you had the minister on board going to Asuncion, his place of destination, would you have broken that blockade upon your own responsibility without specific instructions from your government?—A. Not where I thought it was a *casus belli*. I do not regard that as a *casus belli*. If I had said, "I shall have to go up; I am bound by my instructions to go;" if they fired into me, they would be the aggressors, not I.

By Mr. ORTH:

Q. If you had been in command of the South Atlantic squadron and Minister Washburn had applied to you to transport him to Asuncion—to the court to which he was accredited—would you have furnished such transportation and taken him through what the H called their blockade of the Parana River, whether they protested or not

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against the act?—A. Well, that requires some consideration. I should take time to deliberate over it, and I should look into the necessity of Mr. Washburn's going. If it was a case of necessity, and there were sufficient instructions from the government or department to guide me, I should do so. But I would not do it on the minister's request simply, if I thought it was going to involve the country in a war.

Q. Suppose, however, the minister showed you instructions from the State Department ordering him to his post of duty; would you regard that as sufficient?—A. No, I would not, unless there was some very important reason assigned; then I might do it.

Q. Do you believe that the allies had the right to draw military lines and refuse to the United States the privilege of sending their minister through those lines to his destination?—A. They had the right, because they had the force; but I do not think it was an act of courtesy. I think it is showing a want of courtesy to prevent a minister or consul going to a foreign country under those circumstances.

Q. Then, if you had a force superior to theirs you would go through, claiming the right to do so?—A. Well, I think nations have generally done that, because these people, if you had the larger force, would hardly risk having their army and navy destroyed on a point of etiquette. But when the opposing party has the greatest power, an officer has to be very careful in a case of that kind, and to consider and look at his instructions. You must recollect that the "Wasp" had but one gun, and it seems like a piece of presumption for a little blockade-runner to present herself before a large fleet and demand a passage, with nothing to back her.

Q. In this case, Uruguay, Paraguay, the Argentine Republic, and Brazil, were all at peace with the United States. We desired to send our minister to Asuncion. The allies said "No, you cannot go through, because, if you do, you will interfere with our blockade." Of course you do not acknowledge their right to prevent our minister going there?—A. No, I think they ought to have allowed it; I think it was a want of courtesy on their part, and it is very unusual. I have seen a great deal of blockade in my life, and of various kinds. I have seen it in the Archipelago, and in that same river, in Mexico, and upon our own coast, and I have a pretty good idea of what it is.

By Mr. SWANN:

Q. Still, you state that in all probability you would have disregarded that claim, or the right which they claimed to interpose obstacles in your way, and would have been governed by your position there and the strength you had to back you?—A. Unless I had the force, I would not have attempted to break the blockade; because all I should have got for my pains would have been a severe whipping, and my government might have tried me for it by court-martial; though if I had been successful they might support me. I do not think, however, that the government would support any man who would attempt to break a blockade with a very small force.

By Mr. WILKINSON:

Q. Suppose application had been made to the allies for permission to take Mr. Washburn up to Asuncion, and they had refused permission, and that refusal had been reported to the Secretary of State, and the Secretary of State had returned the answer to our minister at Brazil that it was an unfriendly act, and for him to repeat the demand to go through; and that in that event the admiral had been applied to for aid; what was his duty in that case?—A. He could not do anything without instructions from the Secretary of the Navy. The Secretary of State, in such a case as you have cited, would have applied to the Secretary of the Navy to give instructions, by order of the President. To act under these circumstances, would be to make war; and as there had been sufficient time for the government to be notified of these difficulties, it would be presumed that at the same time the minister was ordered to repeat his demand there would be opportunities of sending orders to the commander of the squadron; and I do not think the Secretary of State would expect an officer under those circumstances to force the minister through the lines without orders from the Secretary of the Navy.

Q. That being the case, don't you think it would be wise to have some system adopted by which there should be unity of action, in cases of this kind, between the different departments of the government?—A. No; I think it had better be left in the hands of the government. I do not think the government would like to give up their authority either, because then we would put the act of making war in the hands of the admiral and the minister, a thing which at present Congress keeps in its own hands. I think if I had been the admiral under these circumstances, as the matter had gone so far it would not do any harm to wait a little longer, I would have written to the Navy Department for specific instructions. If any difficulty grew out of my action, the whole responsibility would come upon me. The minister has no responsibility in the matter; it is the man who orders the gun to be fired.

Q. The minister is the mouth-piece of the State Department?—A. Yes; but he does not deliver any orders from the Navy Department. The Secretary of State cannot issue any order to a naval officer, unless it comes through the Secretary of the Navy.

Q. I want to ask you, then, whether our diplomatic officers can gain any assistance from our navy at foreign stations, upon application under instructions of the Secretary of State, or whether they must wait six months or a year to get news from home?—A. Nine times out of ten there is no difficulty in obtaining assistance; but in a case where there is danger of involving the country in a war, there would be a disagreement, because a naval officer has to be very careful how he acts.

Q. Suppose that upon such application, the commanding officer should detail a vessel for the purpose, and that vessel went up as far as it could, and then asked permission to go through, and it was refused; of course, a small vessel like the Wasp would not commence a fight there, but would go back?—A. Yes, sir; go back and report the circumstances to the department.

Q. Now, don't you think it would be the admiral's duty to make the attempt to go through, to go up there and ask permission to go through?—A. Yes, sir; that I think is his duty. Then the responsibility of the refusal rests upon the opposing party.

By Mr. SWANN:

Q. And then, in all probability, the Secretary of State would confer with the Navy Department, and the Secretary of the Navy would order a squadron sufficient to force the lines, in case it was deemed advisable?—A. Yes, sir; a naval officer is a mere machine after all, not to act on his own responsibility, as an army officer is. It would not do for the Secretary of State to issue an order to an officer in the army any more than to an officer in the navy; and the fact of a minister's merely passing the word to an officer of the navy is no authority for him to act, any more than it would be for an officer of the army. It is a very small thing that is required in such a case. The Secretary of State has only to write to the Secretary of the Navy, and say, "Please give the following instructions to the officer in command of such a squadron," and it is done.

By Mr. ORTH:

Q. So, in your judgment, you do not think any legislation is required on this subject?—A. I do not think any legislation required. It works well now, and a change might make many difficulties. I think it is a good plan to let well enough alone.

By Mr. WILKINSON:

Q. Do you think our government as efficient in protecting its citizens abroad as the English government is, for instance?—A. I think American citizens abroad receive good protection from their government, but our government does not go at it as vigorously as the English government. We have more friends among other nations than the English have. Our naval officers conciliate them, and we stand better with them abroad than any nation on the face of the earth, from the simple fact that we mind our own business, and do not meddle with their affairs. Whenever any complaint is made by an American citizen, our consul, or the naval officer performing consular duties, calls on the government and requests that the injustice be abated, and it is always done. We have interfered frequently in the case of British and French subjects, and have always been successful in getting them out of their troubles. I think our citizens abroad get as much protection as those of any nation; the only trouble is, we have but forty-odd vessels in commission, mounting about two hundred guns, to do all our police duty all over the world. That is, we have got one gun-boat of six hundred tons to protect every sixty thousand tons of our commerce—in that ratio; while the British government has three hundred and seventy-odd vessels in commission at this present time, and the French three hundred and sixty-nine thousand tons; I do not know how many vessels. They are able to give much better protection than we, because of their superior number of vessels. The British and the French also give as much protection to Americans abroad as we do.

By Mr. SWANN:

Q. But you do not think we are suffering to the extent that it would require a larger number of vessels in commission to give the necessary protection?—A. No, sir; not at all. We have had but three complaints from the State Department this year. Some missionaries on the South Pacific Islands applied for protection, and a gun-boat was sent there. We do not find that there is any lack of protection, and I think this is as much in courtesy to our flag as fear of our force.

By Mr. ORTH:

Q. What is the annual expense of keeping a first-rate man-of-war in commission?—A. We do not keep a first-rate man-of-war in commission. Suppose you say an ordinary; well, it costs about \$150,000 a year.

Q. For instance, take the Guerriere.—A. She costs, properly managed, about \$150,000 a year, including officers' and men's pay, and everything; and if they do not burn coal, each vessel saves \$100,000 a year.

Q. If she used coal, the expense would be \$250,000 a year?—A. Yes, sir.

By Mr. SWANN:

Q. Are you acquainted with Captain Ramsay?—A. I am. He was under my command during the whole war.

Q. What is your estimate of him as an officer?—A. It is very high. He is one of the cleverest young officers in the navy; a brave and gallant man. He has been in a good many fights under my direction and orders, and is a man of more than ordinary intelligence.

Q. In what capacity did he serve with you in the South?—A. First in command of a vessel, and then in command of a division of twenty-five or thirty vessels.

Q. You have always looked upon him as a reliable and intelligent officer?—A. Yes, sir; he has that reputation in the navy and out of it.

Q. Do you know Surgeon Duvall?—A. I do.

Q. What is his standing in the navy?—A. Well, it is very hard to say. I have known him a long while, and never knew anything against him. Personally we have always been the best of friends, and on several occasions I have fought his battles for him; but latterly he seems to have got into bad odor in the navy. I do not know really whether all the things I have heard about him are true or not. He was tried by court-martial, when Commodore Owen commanded the Ironsides during the war, for bringing improper charges against his commander-in-chief, and it was said that he kept a book of notes detailing the conversations of officers. Those were the charges. He was tried and sentenced to be reprimanded and punished in some other way; but the sentence was never carried out. Whether he deserved it or not I do not know. I tried to get hold of the papers not long ago to see what the case was, so as to keep myself informed in the department; but the papers had been abstracted, and I could not find out the merits of the case, and nobody seemed to know anything about it. All I know about it is from hearsay. He came to the department some time ago when he came home, and there was a difficulty between Admiral Davis and himself, and I thought the best plan was to recommend the Secretary to hush it up; and as Doctor Duvall withdrew a very offensive letter he wrote about the admiral, we gave him a hospital, and he is there now, quiet and happy. I do not know anything more about him than that. I have heard a good deal, but do not think it is worth repeating. Personally my relations with him have been pleasant, and he seems to be a harmless man; but these stories got around about him, and everybody agrees on one point—that is, about his creating difficulties.

By Mr. ORTH:

Q. You say the conduct of Admiral Davis, in going to the relief of Bliss and Masterman, has been approved by the Navy Department?—A. Yes, sir.

Q. Was that since your connection with the department?—A. Yes, sir. It came before Secretary Borie, and he said he could not see anything to disapprove of.

Q. Did you ever see the correspondence between Admiral Davis and Lopez?—A. No, sir; the only thing I have read in relation to this matter is the papers of Bliss and Masterman, given to me by Mr. Washburn.

Q. You have not read the official correspondence?—A. No, sir.

Q. I will call your attention to the letter of Admiral Davis to Lopez, dated December 3, 1868. Will you please read it?—A. I have seen that before.

Q. Do you regard that as a proper position for the admiral to take under the circumstances?—A. That letter, from all I can hear, does not exactly explain all the circumstances. I got that impression from the officers who were there at the time. Admiral Davis had an idea that the lives of these men were in danger, and his idea was to save them if possible. I suppose that is the reason. I do not think that is the letter I would write myself on an occasion of that kind. That letter contains a demand for the unconditional surrender of these men. If they had refused to deliver them, Admiral Davis must have made war; but he had no intention of making war with the Wasp.

Q. The next letter that Admiral Davis wrote to Lopez is dated December 4, 1868. Please read it.

(The witness read the letter referred to as published in Ex. Doc. 79, H. R., fortieth Congress, third session.)

A. I would not consider that a demand but a request.

Q. The admiral says in his testimony that he anticipated the instructions of the Navy Department. Do you recollect those instructions?—A. I do not.

Q. After writing that first letter the admiral had a personal interview with Lopez, and after that personal interview this second letter was written. Thereupon Lopez, through his minister, sends to the admiral the following letter.

(Letter of Palacios to Davis, dated December 5, 1868, as published in same document, shown witness.)

Q. To which Admiral Davis replied as follows:

(Letter of Davis to Lopez, dated December 5, 1868, as published in same document, shown to and read by witness.)

A. I understand from that that he takes these men unconditionally. He did not refuse, but he says it is not his business to offer terms; so I do not see how he can compromise himself there. He also leaves it to the government of Paraguay to explain to our government the condition on which they held these prisoners.

Q. What do you regard as being the duty of a naval officer who is sent to a foreign nation to demand the release of two persons who are imprisoned by that nation, those persons having been members of the American legation; do you regard it as his duty to make an absolute demand for an unconditional release?—A. If he is so instructed he must do it.

Q. In this case, though, Admiral Davis said he anticipated the instructions of the Navy Department in going up there to demand their release. Would you have regarded any naval officer as being justified in entering into terms with regard to their surrender, such as are foreshadowed in this correspondence?—A. Well, it depends upon whether he wants to save the lives of these people or not. From what I have heard of the character of Lopez I should suppose Admiral Davis was justified in getting possession of these men upon almost any terms. That seems to have been his object, to save their lives, because they were under the impression that Lopez would not hesitate to hang them; therefore he did not care so much about the terms, but left the government to settle that afterward.

Q. You would then excuse the naval officer up to the point of his getting these men on board of his vessel?—A. Yes, sir; I would excuse the officer in a case of humanity being a little civil, when it does no harm.

Q. How, then, would you treat these men after they had reached your vessel and were beyond the power of Lopez?—A. I should treat them kindly.

Q. Would you consider them as prisoners of war?—A. Well, that depends upon the terms upon which I had accepted them. That depends upon what these men had really done. They might be murderers, but I would try to save their lives, or criminals, and I would try to save their lives.

Q. After saving their lives would you continue to hold them under *surveillance*?—A. Nothing more than to keep them from going on shore. I would treat them kindly in every way. I do not see the necessity for anything else.

Q. If you had been in command of the Wasp the night these men were brought there would you have ordered them under charge of an officer?—A. If they were state prisoners I might have done so.

Q. Would you have received them as state prisoners?—A. When a man sees himself in a condition to save their lives, if he went away from there after having had it in his power to get them, upon any terms, and they should afterward be hung, he would be in a bad way.

Q. But after you had saved their lives, after you had got them on board your vessel, would you, out of any respect to Lopez, treat them as prisoners?—A. That would depend upon what promise I had made to him. If I made a promise to him I would conform to it. The whole act, as I understand it, was to save these men's lives, and he pledges himself here to deliver them to the government of the United States as prisoners, to be treated by the government. Under these circumstances he is responsible that these men are delivered to the government, as he has pledged his word.

Q. If you, then, had made a pledge to Lopez that you would receive these men as prisoners of war, to hold them as such and deliver them to the United States government, would you have brought them home or discharged them at Rio?—A. I should have brought them home. I should have done exactly what I promised to do, but treated them kindly. I do not see any necessity for harshness, but I should look out and see they were reported to the government.

Q. Suppose you were instructed by the Navy Department to go to Lopez and demand the surrender of two members of the American legation, would you under any circumstances, except simply for the salvation of their lives, receive them as criminals?—A. No, I would not.

Q. Then having received them as criminals simply for that purpose, would you for one moment treat them as criminals after they were in your power?—A. I would not treat them as criminals. If I had taken them to save their lives, I would treat them with every kindness.

Q. Suppose you found it necessary to make a promise to Lopez, in order to get possession of them and save their lives, regarding him as an outlaw, would you hold any faith with such a man as that?—A. Yes; that would not justify me in telling a falsehood. As I had made a promise to him I would keep it. Besides, these men ought to be satisfied to submit to some inconvenience for the sake of having their lives saved, and it might happen that this kind of a thing would occur again, and he would say, "You failed to keep faith with me last time, and I will not trust you again." Therefore, whatever my promise was I should religiously keep it.

By Mr. WILKINSON :

Q. Where there was a controversy between the American minister and a represent-

ative of a foreign government, as in this case between Mr. Washburn and Lopez, and Lopez wished to furnish proof against him by the admissions of prisoners, would you aid him in furnishing such proof?—A. No, sir; and I would not accept it, either.

Q. Admiral Davis, at the request of Lopez, as it appears in evidence, sent Captain Ramsay and Captain Kirkland into the country where these men were imprisoned, to listen to their confessions against Mr. Washburn, and for no other purpose. Would you have done that?—A. Well, that was a part of the policy to save these men's lives, which is the idea I have in my mind. I have heard the officers say they were willing to amuse Lopez for the purpose of saving these men's lives, and I suppose it was the only way they could do it. It is a common thing for us abroad when sailors are arrested—for men belonging to ships are amenable to the laws of a foreign country while they are there—for our officers to go to the courts and listen to the evidence, for the purpose of satisfying themselves about the case; and I suppose Bliss and Masterman would be amenable to the laws there.

Q. You do not understand that members of a legation are subject to the laws of a foreign country?—A. No, sir; I do not understand that. They were not amenable.

By Mr. ORTH:

Q. Then knowing the character of these persons, and that they were not amenable to the civil or other laws of Paraguay, which is an established fact, would you have consented to receive charges and evidence against them, and against Mr. Washburn from Lopez, and brought it home and lodged it in the State Department?—A. I think I would not have objected to sending the officers up for the purpose of saving these men's lives; but I should not have cared about taking any further notice of the charges.

Q. When received on board, knowing they had been arrested as members of Mr. Washburn's legation, would you have placed them under any surveillance whatever on board your vessel?—A. Yes, I would regard my promise, and keep faith with them. I look upon Lopez, however, as a kind of savage. That is my idea of him, and also of the people of that country. You can hardly be said to be dealing with civilized people, and, therefore, that is the excuse in this case.

Q. Suppose you had made that promise to a civilized and enlightened nation?—A. I would keep it under all circumstances.

Q. Would you keep a promise extorted from you?—A. Yes, I would. I would have no right to make it unless I intended to keep it, unless it would do harm, and nothing but personal inconvenience came out of this, that I know of.

By Mr. WILKINSON:

Q. Doesn't it do harm where the news is spread abroad that the American flag had been dishonored and insulted, and members of the American legation taken from under the protection of the flag, for an American man-of-war to come down with these men, and run through the Argentine Confederation up to Brazil, and have an American admiral holding these men as prisoners on board his vessel?—A. I do not know whether the other parties knew anything about it. But it would do more harm to have it said that an American admiral had pledged his word and then broken it.

Q. Do you think an American admiral ought to have made such a promise, even to save the lives of these two men?—A. Yes, I do. I would stretch a little to save a man's life. A man would not be justified on a little matter of conscience of that kind to allow foreigners or American citizens to have their throats cut, merely because he didn't want to tell a story.

Q. Suppose Mr. Washburn had been arrested, and been rescued in the same way, and you had been in command there, would you have brought him down in the same way?—A. I should have asked Mr. Washburn what he would like to do. If Mr. Washburn wanted to risk his life, he could say himself what terms he would save it on; and if he advised me not to receive him except unconditionally, I would do so; but, if he left it to me to save his life, I would get him out and settle that matter afterward.

Testimony of William Hunter.

WASHINGTON, November 25, 1869.

WILLIAM HUNTER, Second Assistant Secretary of State, sworn and examined.

By Mr. ORTH:

Question. How long have you been connected with the State Department?—Answer. Forty-one years.

Q. You have heard the testimony of Admiral Porter with regard to questions of conflict between the naval officers and the representatives of the government in the diplomatic service. Please state to the committee what you know of such conflicts

having arisen since your connection with the State Department.—A. There have been numerous occasions where they have or might have arisen if they had not been overruled by the Department of State. Under our government, the President, being the commander of both the army and the navy, gives his orders to the navy through the Secretary of the Navy, and no diplomatic representative is supposed or allowed to have any control over a naval officer, without specific instructions from the Navy Department, at the request of the Secretary of State, authorized by the President to make that request or to direct it.

Q. Has the State Department ever found an unwillingness on the part of the Navy Department to accede to their wishes?—A. Never. In matters of sufficient importance to induce the State Department to make requisitions on the Navy, they are always considered imperative. The Secretary of the Navy would never refuse to give an order requested by the Secretary of State, by direction of the President. Our diplomatic agents going abroad, knowing that under our system of government the civil department has theoretically the control of the military and naval departments, think it very hard, especially in these remote countries, that the naval officers will not take their advice, at least; but the naval officers are men, generally, who have been abroad a great deal, and, as a matter of necessity, they have studied, generally, the questions that will arise, and their natural sense of acuteness is sharpened by a sense of responsibility, and they are right in not assuming any responsibility except when they are authorized by the President through the Secretary of the Navy to do so.

Q. Do you recollect of any instance in which the Secretary of State has given orders to naval officers except through the intervention of the Secretary of the Navy?—A. No, sir; he has no right to do it. The President would not allow it. No Secretary of the Navy could hold his commission for a day if that were done.

Q. Do you know of any instance in the records of the State Department where a minister has complained to the State Department of want of co-operation on the part of the navy, aside from this case now under consideration?—A. I cannot say that I know of any such instance. There may have been allusions made, but no formal complaints.

Q. From your knowledge of the operations of the State Department in this respect, do you think any further legislation is necessary?—A. I do not. I do not think any legislation whatever is necessary, provided each department discharges its own duty. When questions of great difficulty and delicacy occur abroad in which the co-operation of the navy may become necessary, they should be considered very deliberately. They are generally considered here in Cabinet, and if the co-operation of the navy is determined upon, it is with the understanding of the entire administration.

Q. Do you know of any instance in which the Secretary of the Navy has ever refused to comply with a request of the State Department?—A. No, sir; I do not know that I do. It is generally assumed that the Secretary of State in making such a request has acted under the direction of the President. I have been at Cabinet meetings myself where these things were discussed very often.

By Mr. SWANN:

Q. In all instances where instructions are given to the Secretary of the Navy, as a medium of communicating with the navy, he has acquiesced?—A. Certainly. These instructions are given by order of the President, and of course the Secretary of the Navy carries them out.

Q. General McMahon went out with specific instructions from the State Department, did he not, when he went upon his mission to Paraguay?—A. Yes, sir.

Q. Do you know whether his conduct during his connection with Paraguayan affairs was approved by the State Department?—A. I do not know that there has been anything written formally approving it. General McMahon's dispatches were intercepted, and did not in fact reach us until after his return. They have been well read and considered, but I do not know that any formal action has been taken upon them, or any formal approval addressed to him.

Q. Has objection been made to his course while there?—A. Not that I am aware of. I have no reason to believe any such objection has been made. I should have known it if it had been made in writing. I do not know what the Secretary of State might have said to him in conversation. The correspondence generally passes under my eye.

Q. Do you know the ground upon which General McMahon was recalled from his mission?—A. I do not, except upon the general idea that a minister was no longer necessary in that country. No successor has been appointed.

Q. He was not recalled in consequence of any objection made to his official course?—A. No, sir; no objection could have been made because we were unable to communicate with him. Indeed we were very anxious personally and officially to know what had become of him.

Q. What was the cause of that anxiety?—A. From the course of events in Paraguay previously, and the character of Lopez, so far as it was known to us.

By Mr. WILKINSON:

Q. What was that character, so far as the department had any information?—A. That

he was a man very apt to carry out his own opinions whatever the results might be to the individual; that he would not hesitate to take the life of anybody to carry out his purposes.

Q. Was General Webb recalled from his mission to Brazil?—A. I think he asked leave to come home, and that he then resigned his position there.

Q. Was that at the request of the department?—A. No; I do not think it was at the request of the department, but I am afraid the Brazilian government would have been very apt to have requested it.

Q. Would the department have done it at the request of the Brazilian government?—A. Certainly; they never fail to do that when so requested.

By Mr. ORTH:

Q. I notice in a letter of instructions from Mr. Seward to General McMahon, dated September 2, 1868, the following language: "You will be expected to show these instructions to Mr. Webb, to Mr. Worthington, and to the rear-admiral." What was the object of that clause in his instructions?—A. I presume the object was to give these gentlemen information in regard to the views of the government respecting Mr. McMahon's mission at that time. This is very often done in such cases. It is desirable that all the high officers of the government with whom he may come in contact may know what his instructions are.

Q. Was your department at the time of the date of this letter, September 2, 1868, in possession of information respecting the conduct of Lopez toward our minister and the arrest of two members of his legation?—A. I could not tell that without referring to the original dispatches to see when they were received.

Q. Bliss and Masterman were arrested on the 10th of September. These instructions were dated the 2d of September, so that one of the objects of the department in requesting McMahon to call upon Webb and Worthington could not have been in consequence of a knowledge of these facts. Was it not to ascertain what information they might have of Paraguayan affairs, which the department here did not have, and to take the views of these ministers?—A. Not to be governed by their views, certainly. It might have been to take their opinions and to obtain possession of such facts and information as they might have.

Q. And from these facts and opinions was he to be governed in his own course?—A. Not unless there were specific instructions to that effect. He was to act upon his own responsibility, attaching such weight and importance to these facts and opinions as they seemed to deserve.

Q. Let me ask you whether, when you received dispatches from Mr. Washburn, setting forth what had occurred at Asuncion, with regard to his own withdrawal and the arrest of two members of his legation, that fact did not enter into consideration in the recall of Mr. Washburn?—A. Not that I am aware of.

Q. Do you know of its being talked of in the State Department at any time?—A. I do not. The recall took place when Mr. E. B. Washburne was Secretary of State.

By Mr. SWANN:

Q. How long was Mr. Washburne at the head of the State Department?—A. I think not more than four or five weeks, and perhaps not that long.

Q. After he came into the State Department how long was it before McMahon was removed?—A. A very short time. It was done promptly after he entered upon his duties as Secretary of State.

DEPARTMENT OF STATE,
Washington, November 24, 1869.

SIR: I take this occasion to correct the answer which I gave to the question asked me by the committee yesterday, as to whether General McMahon's course in Paraguay had been officially approved. My reply, I believe, was, that I was not aware that it had been, and that if such approval had been given, I would be likely to know it. Having occasion this morning, however, to draw a letter acknowledging the receipt of one from the general, I thought the opportunity a suitable one to acknowledge the receipt of his official dispatches. A sentence to that effect was consequently added to the draught. When, however, I turned to the draught of our previous communications to the general, I found that under date the 2d of September last, the receipt of his dispatches was officially acknowledged, and his course was approved. The draught of this letter is in my own handwriting, and it was written by order of the Secretary of State. The fact of its having been written at all had yesterday entirely faded from my memory.

I have the honor to be, sir, your very obedient servant,

W. HUNTER,
Second Assistant Secretary.

Hon. GODLOVE S. ORTH,
Committee on Foreign Affairs, Washington.

Additional statement of Porter C. Bliss.

WASHINGTON, D. C., December 3, 1869.

Mr. PORTER C. BLISS appeared and made the following additional statement:

In reference to the statements made by General McMahon in his testimony in regard to the published list of the names of the victims of Lopez, I wish to state that his remarks refer only to the unofficial list which he saw in Buenos Ayres, and not to the original document which was captured from the carriage of Lopez on the 27th of December, 1868. General McMahon has not designated the name of a single person found in the original document who was not executed or did not die a so-called natural death as stated therein. Not a single exception has been proved in that official list, which comprises the names of five hundred and eighty-eight individuals. The two or three persons mentioned by General McMahon, such as the vice-president, Sanchez, Colonel Venancio Lopez, one of the brothers of the President, and the minister of war, Caminos, have never figured in any official list, and have only been reported in a vague manner through the newspapers of South America as having been among the victims. But in the list submitted by the State Department and in the list which is found in the pamphlet published by the government of Buenos Ayres, they are correctly given; and General McMahon has not established the case of a single exception of persons mentioned in those lists.

I wish to state further that I can give my personal testimony to the exactness of a great portion of them. The executions which took place during the three months of my imprisonment are narrated in detail in these lists, and in many cases I can remember positively that they did occur upon the dates given. My own discharge from imprisonment is mentioned with the correct date. The death of the colored servant of Mr. Washburn, who died three days after his arrest, is correctly given. The execution of Carreras and hosts of others of my friends, scattered all along from August to December, in every case are given correctly, according to the best of my recollection. I have not been able to detect any incorrectness, and consequently have every reason to believe the list is entirely correct.

In reference also to the statement of General McMahon concerning the right of asylum as exercised by Mr. Washburn, I wish to state that Mr. Washburn never exercised the right of asylum in the sense in which that expression is used by writers upon the law of nations. Mr. Washburn never exercised that right as against the Paraguayan government, unless possibly the case of Pereira might be so considered. But in all the other cases (which amount to forty) it was simply a hospitality extended to them against a possibility of suffering from the enemy. All the persons who are accused by name of being criminals, Rodriguez, Carreras, Mr. Masterman, and myself, had been residing for many months in the legation before there was any suspicion on the part of any of us of there being any charge of conspiracy. Consequently it is not a case of right of asylum.

In regard to the proposition which Mr. Washburn made at one time to send Mr. Masterman and myself as prisoners for trial to the United States, and which has been incorrectly represented in the statements of other parties, the facts are as follows: In the treatises upon international law which were accessible to Mr. Washburn and ourselves in Paraguay, which were Wheaton, Vattel, I think Puffendorf, and two or three others, it was stated, in what was to us a satisfactory manner, that the proper course to be pursued, when members of a legation in a foreign country were accused of a grave crime, was, if the head of that legation possesses himself judicial functions according to the laws of his own government, to proceed to take cognizance of the charge. If he does not possess such judicial functions, the only course he should pursue is to receive the charge, and then to assume the responsibility of sending the members of his legation to their own country, there to be tried. It has been stated before this committee that Mr. Washburn's conduct at that time betokened that we were really guilty of some offense against the Paraguayan government. I can state positively that such was not the fact. From the beginning to the end, in every note he wrote upon the subject to the Paraguayan government, Mr. Washburn strenuously argued against the possibility of our having committed any such offense. He argued that all our actions had been perfectly known to him, and that he of his own knowledge knew that we were innocent of any such crime. But as the Paraguayan government insisted over and over again upon our criminality, and made the charges more and more specific, Mr. Washburn found that as the toils were tightening around us, that the only way of escape from the dilemma would be, if Lopez—that is to say the Paraguayan government—would accept all the provisions of these international writers, Mr. Washburn was willing to proceed on that indication; that is, to waive the question of our criminality and leave it to be determined by our own government, and, in deference to the charge made by the Paraguayan government, render us prisoners in the legation and send us at the earliest opportunity to the United States. That is a correct statement of the case.

By Mr. SWANN:

Q. Have you seen a work published on Paraguay by Mr. Masterman?—A. I have.

Q. What is your estimate of the character of Mr. Masterman?—A. Mr. Masterman is an Englishman who has an exceedingly great prejudice against America and everything American. He is a man of a temper which was always getting him into a difficulty with his own countrymen and every one else in Paraguay. His excitable nature, his nervousness, and his pride are the cause of his being frequently in hot water; and when he was taken out of prison by the intervention of Mr. Washburn, he never felt any gratitude to Mr. Washburn for this service; but, although given a home in the house of Mr. Washburn, as physician to Mr. Washburn's family, his personal relations with Mr. Washburn very soon became exceedingly embarrassed. As for myself, Mr. Masterman and I have never been friends.

Q. You have seen the slurs upon Mr. Washburn and yourself in that volume?—A. Yes, sir. I will state in that respect that Mr. Masterman had no consultation with me on board the vessels of the American navy. We treated each other, during the six weeks we were on board the *Wasp* and *Guerriere*, not as friends. We had no communication with each other concerning what we had passed through, with the exception of a long conversation, lasting two or three hours, the first night we passed on board the *Wasp*, in which we, each of us, narrated some of our experiences. We never afterward had any free communication upon the subject, and this arose from Masterman himself not desiring to obtain any further information from me, and not desiring to communicate to me anything regarding himself. From the time then that we were on board the *Wasp* we were distantly polite to each other, and never had any free communication, which explains the fact that he has committed an infinite number of blunders, both in his statement of what we experienced in our imprisonment, and more particularly in what he states regarding Mr. Washburn and myself, though I do not accuse him of any deliberate intention to falsify. I do not charge him with perjury, nor do I believe him capable of such acts; but I could show, if I had the book in my hand, a large number of cases in which his memory is at fault, and in which his statements become very confused and give an exceedingly erroneous idea of the circumstances.

Q. At what time did Mr. Washburn become acquainted with his character, and want of gratitude for the service he had rendered him?—A. Very soon after. Within a very short time after his release from prison he was in the habit of cursing Washburn, with all his friends, and, in short, no great length of time passed before in my own presence Mr. Washburn and Mr. Masterman had a quarrel at table, after which they never pretended to treat each other as friends.

Q. What induced Mr. Washburn to retain him as a member of the legation after he became fully acquainted with his character, and his want of gratitude? Did he ever speak of dissolving his connection with the embassy, and getting rid of him?—A. He did. There was a time when he proposed to dismiss Mr. Masterman from the legation. But that was after the evacuation of the capital; and at that time, if Masterman had been dismissed, he would have found himself in an exceedingly difficult position. He would have been probably immediately arrested on the old grounds of dissatisfaction which the Paraguayan government had with him, and Mr. Washburn, on second thought probably concluded not to be so cruel as to do so—simply on humanitarian principles.

DEPARTMENT OF STATE,

Washington, December 30, 1869.

SIR: Referring to your letter of the 27th of October last, inclosing certain interrogatories concerning General Lopez, and affairs in Paraguay, to which answers were required, I have the honor to inclose a copy of a dispatch of the 10th instant, No. 177, from J. Lothrop Motley, esq., our minister at London, with the original answers made under oath by Dr. William Stewart to the interrogatories referred to.

I have the honor to be, sir, your obedient servant,

HAMILTON FISH.

Hon. GODLOVE S. ORTH,

Chairman of the Sub-Committee of Foreign Affairs, House of Representatives.

No. 177.]

LEGATION OF THE UNITED STATES,

London, December 10, 1869.

SIR: Referring to my No. 153, I have now the honor to transmit herewith, in conformity with the instructions contained in your No. 87, answers furnished by Dr. W. Stewart to the list of interrogatories sent to me in your above-mentioned dispatch.

Dr. Stewart having prepared these answers, appeared in person at the legation yesterday, where they were read over to him. He then made oath of their truth.

I am, sir, your obedient servant,

JOHN LOTHROP MOTLEY.

Hon. HAMILTON FISH, *Secretary of State, Washington, D. C.*

Testimony of Dr. William Stewart, late of Paraguay.

Interrogatory 1. How long were you in Paraguay?—Answer. Twelve years.

Interrogatory 2. What was your position there?—Answer. Not long after my arrival I was engaged by Lopez, at that time general and minister of war, (his father being then President of the republic,) to serve as medical officer to the Paraguayan government. Shortly afterward I was appointed chief of the medical department of the state, and subsequently surgeon-major and inspector general of hospitals.

Interrogatory 3. What were your relations with President Lopez? Answer. During the first few years they were of an intimate kind. My official position brought me into constant communication with him. I had to consult him on all matters connected with the administrative department of the medical service, and besides was his physician in ordinary. In this capacity, consulted not alone by himself, but becoming medical adviser of his father and of the whole Lopez family, I had opportunities both of hearing his opinions on leading subjects, political and other, of studying the idiosyncrasy of the man, and forming an estimate of his character. My intercourse with him made me acquainted with the more prominent personages whom he admitted to his intimacy, and with Mrs. Lynch, who was a power in Paraguay, and whose name and character are now well known both in Europe and America.

Interrogatory 4. Were you on intimate terms with Mr. Washburn?—Answer. Yes.

Interrogatory 5. What were the relations of Mr. Washburn and President Lopez previous to the war?—Answer. So far as I know, amicable. But Lopez was habitually reserved, and I should presume that he seldom, if ever, relaxed from his customary caution with Mr. Washburn more than he would with any one else, save a reasonable exception, which I shall have to notice in answering question 22. Lopez often spoke of Mr. Washburn, as he did of others, probably with the view of sounding or testing me, disparagingly. Standing in the relation in which I did to Lopez, my official position being a confidential one, I, of course, gave Mr. Washburn to understand that the less we said to one another of Lopez the more prudent, as well as honorable, the restriction we should impose on our otherwise friendly relations. As an instance of the suspicious nature of Lopez, I may mention that, with his mother's permission, which I was careful to obtain beforehand, I introduced Mr. Washburn to her, an introduction which, as it happened, gave great offense to Lopez, although the introduction did not take place until a week after I had proposed it. I have no doubt that Lopez would rather not have Mr. Washburn and his family on visiting terms. Previously to the war, the intercourse between Mr. Washburn and the President may be characterized as that customary between the representative of a foreign power and the court to which he is accredited.

Interrogatory 6. Did Lopez change in his feelings toward Mr. Washburn; if so, when, and for what cause?—Answer. Lopez not only expected the resident representatives of foreign governments to approve of his proceedings publicly, but managed to learn their sentiments by a system of domestic espionage that left no conversation of theirs unreported to him. In addition to these household spies, Mrs. Lynch played cleverly into his hands. She would start topics when entertaining or conversing with members of the diplomatic corps on which they could hardly avoid expressing some opinion or other; and whatever they said was reported by her to Lopez, with or without additions or omissions. From personal acquaintance, during my residence in Paraguay, with all representatives there from foreign countries, I know that, Mr. Washburn, of course, inclusive, they were, each and all, extremely guarded in their conversation when speaking of Lopez; yet there was not one of them who, some time or other, did not incur his displeasure; I may name Mr. Thornton, British minister; Mr. Gould, her British Majesty's secretary of legation; and, after Mr. Washburn's remonstrating with Lopez for not allowing the Brazilian minister, Vidua de Lima, to leave Paraguay in a way becoming the dignity of his official character, Mr. Washburn likewise. As respects this gentleman, however, when he succeeded in passing the blockade and returning to Paraguay in 1866, Lopez seemed to have forgotten his dissatisfaction with him, and to be on the same terms as before, although he testified disappointment at Mr. Washburn's having proceeded to Asuncion without previously presenting himself at his then headquarters. In the following year Mr. Washburn repaired thither on two occasions. The first visit to headquarters was occasioned by his undertaking a mission of peace to the allied camp at Tuyuti, his object being to mediate between Lopez and the allies. His efforts were unavailing. The Marquis de Caxias very properly declined entering into negotiations on other terms than the abdication of Lopez and his withdrawal from Paraguay. On Mr. Washburn's return to headquarters with the news of his ill-success, he demonstrated the singleness and honesty of purpose which had prompted his endeavors to secure repose for Paraguay by penning a letter to the Marquis, in which he observed that it would be as reasonable, or unreasonable, in him to propose the abdication of the Emperor of Brazil as the only basis on which he could negotiate, as for the Marquis to insist on the same stipulation with respect to Lopez. Nevertheless, the failure irritated the President, and he transferred his mortification at the disappointment it caused him to the unsuccessful

negotiator. Lopez never bore good-will to Mr. Washburn after this. The second occasion was to receive from Captain Kirkland, commanding the United States gunboat "the Wasp," dispatches from Washington. How or wherefore it happened that the latter had to wait at the camp for Mr. Washburn instead of proceeding to Asuncion, Captain Kirkland can no doubt explain, as during the eight days of his stay at headquarters he had frequent and intimate intercourse with the President. Lopez always flattered the naval commanders who were sent to Paraguay in the interest of the diplomatic service, and tried to win them over to his views. At that time Lopez boasted to his confidants that the government of the United States would interfere on behalf of Paraguay, and in corroboration of statements to this effect he one day requested me to read to his chief officers, translating as I read, into Spanish, a copy of the late General Asboth's correspondence with the government at Washington, in which the general advocates the cause of Paraguay. Lopez told us at the same time that Admiral Godon was superseded in his command on account of his showing too much sympathy for Brazil. On the occasion of this second visit of Mr. Washburn I observed that Lopez's dislike of him was more marked and undisguised than it had been before, and I told Mr. Washburn at the time that he ought to be very careful to avoid giving Lopez any cause for taking offense. Mr. Washburn and I spoke to one another about Lopez's ill-will toward him, and we both agreed in thinking that it was owing to Mr. Washburn's failure in carrying on negotiations for peace to a successful issue. His failure was the subject of conversation at headquarters for a long time, and it was a pretext for much abuse of Mr. Washburn on the part of Lopez and his confidants.

Interrogatory 7. After that, how was he accustomed to speak of Mr. Washburn?—Answer. At table he used great freedom in his remarks upon Mr. Washburn's diplomatic capabilities, studiously leading those present, by his insidious reflections on Mr. Washburn's doings in his public capacity, and by his (Lopez's) insinuations as to his deficiencies, regarded as a gentleman, (for Lopez affected to be a highly-bred man,) to form a false estimate of Mr. Washburn's character, and considered him underbred in his social status, and unequal to the demands of his diplomatic position. In short, Lopez tried in every way, and from every point of view, to damage Mr. Washburn's reputation.

Interrogatory 8. Did he thus speak of him publicly?—Answer. Indisputably, and, dating from the period that a correspondence commenced between Mr. Washburn and the Paraguayan minister for foreign affairs, relative to the individuals who had placed themselves under the protection of the American flag, and whom Mr. Washburn resolutely refused to give up, from this period, all around Lopez could not please him better than by vituperating and calumniating Mr. Washburn. In particular, Mrs. Lynch gave full license to her tongue. She seemed implacable in her enmity (real, or feigned to please Lopez) toward Mr. and Mrs. Washburn. She constantly spoke of both at the President's table in the most disparaging terms, and made them marks for her scorn and ridicule. It was openly asserted by her and the rest that Mr. Washburn was not only harboring and sheltering conspirators, but was himself a conspirator. In fact, as there was nothing too bad to think of him, judging from their imputations, so there was nothing too bad to say of him.

Interrogatory 9. Did you know of any other motives that influenced Lopez in his conduct towards Mr. Washburn, besides those already stated?—Answer. Yes; and notably Mr. Washburn's expression of sympathy in reply to a note from the Paraguayan minister of foreign affairs, informing him of the death of General Mitre, President of the Argentine Republic, and at the time commander-in-chief of the allied army. The report of the general's death was a canard purposely got up and spread among the troops. I must explain that General Mitre is considered to be one of the most estimable as well as distinguished men in that part of the world, and that, accordingly, Mr. Washburn was acting in conformity not alone with diplomatic etiquette, but with the courtesy and feelings of a gentleman, when he expressed his regret at the loss of one eminent as citizen, statesman, and man of letters. The Paraguayan minister forwarded Mr. Washburn's note to the President, who called together his staff, of which I was a member, read the offensive epistle and commented in strong language on the conduct of the writer. On this hint most of those summoned burst forth, he had insulted alike Paraguay and its President, (so ran their commentaries upon this communication marked by every generous sentiment,) by not only commiserating the demise of an enemy, but by daring to add to the contumelious act the praises of the deceased foe. We were severally called upon for our opinions. When my time came, I remarked that we seemed to be arguing upon erroneous assumptions, starting in fact from a wrong premise. Mr. Washburn, I observed, was the representative of a neutral power and had written in that capacity. Had he, I urged, neglected the courtesies observed by the representatives of all civilized nations, he would have rendered himself amenable to the censure of his own government, as well as sinned against his own self-respect. These observations of mine drew down upon me the coarse indignation of General Resquin, the President's chief of the staff, and doubtless were remembered against me for vengeance on a future day.

Interrogatory 10. Were you acquainted with Porter C. Bliss and George F. Masterman, while in Paraguay?—Answer. Yes.

Interrogatory 11. Have you read their memorial to Congress, and the printed testimony of Mr. Bliss, before the Committee on Foreign Affairs on the House of Representatives?—Answer. Yes.

Interrogatory 12. How far can you corroborate, from your own knowledge, the statements made by Messrs. Bliss and Masterman in their published documents?—Answer. I was an eye-witness of the horrible atrocities committed upon many hundreds of human beings who were accused of conspiracy. I saw them heavily laden with irons, and heard their cries and implorings to their torturers for mercy. I thank God that I am alive to give this testimony. Lopez knew all that was going on, for on several occasions at table he told us that Mr. so and so begged to be shot, but that Father Maiz would reply, "Have no fear for that when we have done with you we will shoot you." The medical officers who were occasionally ordered to visit the principal victims; told me how awfully cut up these were by the floggings, and asked me what would be the best treatment for their wounds. In fact, much that is related by Bliss and Masterman, I learnt at various times from Lopez himself, and from other sources of information, as for instance from Mrs. Lynch, Fathers Maiz and Roman, Major Albeiro, Juan Crisostomo Centurion, Silvero, a Corrantine refugee, and from my wife, who used to get information about many things which transpired among the prisoners accused of conspiracy from Riveros, the native doctor of the ninth battalion, which kept guard over the prisoners from the commencement to the termination of the trials. From all these sources of information I derived my knowledge of the events at the time of their occurrence, and I can vouch for the general truthfulness of the statements referred to. The said Riveros used to come to me for advice, and on these occasions he would chat with Mrs. Stewart, (the more confidentially, she being a native likewise,) and give her details of many circumstances, which, I being his superior officer, he shrunk from divulging to me, but which I was sure to hear from her. For months, innocent individuals were dragged before the tribunals by order of the Paraguayan Domitian. Hundreds were brought from the provinces heavily ironed. Torture was all but indiscriminately applied; and those who survived its barbarities were put to death, as well those who denied as those who confessed themselves guilty of the crimes falsely laid to their charge. This scene of butchery went on almost daily, until December last. The shrieks of personal acquaintances writhing under the lash are still ringing in my ears, and the spectacle of their disfigured, lacerated, and rag-covered bodies stretched on the ground, unsheltered from the weather, day and night, in the most rigorous season of the year, still haunts my sight. No fewer than eight hundred persons, comprising natives of nearly every country in the civilized world, were massacred during those terrible months from June to December. I name two or three of the victims most to be pitied, perhaps, where all were to be pitied—name them in proof that I can substantiate every word I relate: Mr. William Stark, an English merchant, who had carried on business for fourteen years in Paraguay, and amassed a considerable fortune, was dragged out of a sick bed, sent in irons to Lopez's camp, and subjected as he was to every indignity, as well as suffering from dysentery, was soon released from his miseries by death. His wife and six children were turned out of their home, and if yet alive and not having fallen into the friendly hands of the allies, are probably wandering in the forests, half naked and starving, with the surviving population of weak and tender outcasts like themselves. Mr. Newman, after many months' imprisonment, and laboring under severe illness, was similarly sent to the camp, and ultimately expired under the lash. Mr. John Watts, engineer, experienced like treatment, but was shot; his crime, the having sought refuge at the United States legation.

Interrogatory 13. Is there anything contained in either of their statements that you know to be untrue or incorrect?—Answer. To the best of my belief they contain nothing untrue or incorrect. There is not a statement made by either gentleman which I would consider to be an error, either in his relation or in his appreciation of the events narrated.

Interrogatory 14. Had you any knowledge of the alleged conspiracy or attempt at revolution?—Answer. It is my firm conviction and belief that conspiracy or attempt at revolution, there was none; and this opinion is shared by many European gentlemen, long resident in Paraguay, who have escaped from Lopez during the past twelve months, as well as by Mrs. Stewart, who could hardly have failed to hear from her compatriots something of any design, had it been contemplated, since all who knew placed implicit confidence in her. Moreover, after the defeat of Lopez, and his precipitate flight on the 27th of December last, when I and many of the Paraguayans, fortunately, were captured by the allies, I took great pains to get at the truth of the matter, and made many inquiries, all of which had the same result, namely, the expression of surprise that I, who had had so many opportunities of learning the facts of the case, should think it necessary to inquire into what I must have known to be a pure myth. These Paraguayans were out of Lopez's power, and had no possible motive for concealment. One of them, Bernardo Valiente, had been employed as a clerk to take

down the evidence during the trials of the persons who had been thrown into prison by Lopez, charged with conspiring against him, and when I persisted in saying that surely Lopez must have had reason to suspect some of the prisoners, he (Valiente) then said that possibly Berges and Benigno Lopez had maintained some correspondence with Caxias, but he felt certain that none of the other accused persons were guilty of any complicity in a conspiracy or revolution. Of the rest, who, as well as Valiente, had had every means of ascertaining the truth or falsehood of the charge of conspiracy, and had no reason to fear of speaking freely now, one and all were unanimous in scouting the notion of conspiracy, and pronounced the whole, as I have said, a "myth," an air-blown bubble. My impression is, that Lopez trumped up the charge in the hope of exciting sympathy, and of turning in his favor the tide of public opinion in Europe and the United States; and he was sure that the soldiery would be much gratified by seeing all the better classes of natives and foreigners imprisoned, tortured, and executed.

Interrogatory 15. Under the system of espionage that Lopez maintained, was any such conspiracy probable?—Answer. No; but previously to the arrest of Mr. Bliss, I often heard from Lopez, (who was as anxious to establish the charge of "conspiracy" as Titus Oates was to instil belief in the reality of his "plot,") that prisoners had been confronted with an Italian named Simone Fidanza, captain of an Italian merchant ship, who had been one of the first seized on the charge of conspiracy. This man soon confessed his guilt, made a clean breast of it, as Lopez almost daily told me and others, had divulged the whole, revealed the names of the conspirators, and as they were arrested, and, on being questioned, asserted their innocence, he was brought face to face with them by way of dumbfounding them, and of proving to them that denial of the charge was vain, and, to quote the *ipsissima verba* of Lopez, the said Simone would then say, "Vd. debe confesar, todo está descubierto, y merecemos que Lopez nos colga por el pruvier arbol;" which means, "You had best confess; all is now discovered, and we deserve that Lopez should hang us to the first tree." All this time Simone Fidanza had his wants supplied by Mrs. Lynch, and, as she told me, offered in his gratitude to become her cook. Moreover, I happened to be with Lopez two days after Bliss was thrown into prison, when the chief "torturer," Major Abeiro, came in and delivered to the President a copy of a letter written by Mr. Bliss to Mr. Washburn. The latter, at this time was on board the United States gunboat Wasp, but still in Paraguayan waters. Lopez handed the letter to me. Its contents were to the effect that Mr. Washburn was the organizer of the alleged conspiracy, had drawn Mr. Bliss into it, and been the cause of all his errors and misfortunes. It was plain to me from this that he had succumbed to the torture, or to threats of torture, and submitted to tell the story best suited to humor the President. During the period of his incarceration, Lopez from time to time acquainted me and other guests, when dining with him, that Mr. Bliss continued to make most important disclosures. In short, the statements of Mr. Bliss, in his "printed testimony," given to a committee of Congress at Washington, are, I believe, a true and circumstantial narrative of all that occurred. I feel it incumbent on me to add my opinion that Bliss's life would have been in danger if Lopez had suspected that he was in reality exposing him instead of damaging Mr. Washburn, and that Lopez read to me and others present several pages of the pamphlet he published at the instance of Lopez. This was the first intimation I received of its publication, or of anything of the kind having been written. Lopez read with evident delight, and remarked, "What a clever scoundrel this Bliss is."

Interrogatory 16. Who were the principal confidants of Lopez, and what was their general character?—Answer. Luis, Caminos, Falcon, Centurion, Abeirox, Serrano, Fathers Maiz and Roman, Delvalle and Benits, from each of whom he received daily, in person, a separate report of the case intrusted to his charge. The majority were compelled to be the instruments of the cruelty of Lopez, since the sole alternative left them was obedience or death. Had they betrayed any hesitation, showed the slightest pity for the prisoners, or shrunk from wringing from them by torture the confessions or admissions that Lopez desired, they themselves would have been victims instead of victimizers. Yet there were noble instances of this self-immolation, as that of Maciel, Sagiuer, and others. Some of these large-hearted Paraguayans who had been members of the tribunal before which the accused were brought, braved the worst that Lopez could do rather than assist in sacrificing and butchering the innocent, and they heroically met the fate to which they sternly and righteously refused to doom others. Honor to their ashes.

Interrogatory 17. Did you consider your life in danger previous to the departure of Mr. Washburn?—Answer. Yes.

Interrogatory 18. Had Mr. Washburn been made prisoner, would it have affected your condition and that of other foreigners in Paraguay who have since escaped; if so, how?—Answer. Indisputably; our lives would have been endangered, most likely taken; and had Mr. Washburn been thrown into prison, as was at one time suggested by Mrs. Lynch, and by the late bishop of Paraguay, I am convinced that he would have been tortured and made way with like the other victims of Lopez. In this case his death

would no doubt have been attributed to natural causes or to suicide. Lopez would have set at defiance the whole power of the United States, and in all probability he would not have left one of us to tell the story of his crimes.

Interrogatory 19. Did you consider the arrival of the Wasp and the departure of Mr. Washburn as improving your chance of escape?—Answer. Certainly; the belief of us who remained in the power of Lopez was that our chances of liberation were favored by his having escaped. He would be sure to acquaint the States and the whole civilized world with the true character of the tyrant, was our thought; would unveil the mystery which had so long shrouded the acts of the President, and kept out of sight the sufferings of Paraguay. Once public opinion was directed to the subject by the evidence of an unimpeachable witness, we felt assured that public sympathy would follow, and no effort be spared to rescue us from our perilous position. Though somewhat irrelevant to the question submitted to me for reply, I think it is right to make the following avowal. While the Wasp, with Mr. Washburn on board, was waiting for the correspondence of Lopez, he asked me what I thought of his permitting Mr. Washburn to leave the country. Of course I could only reply that it was a proof of his excellency's generosity, for I myself was in daily dread of being tortured and executed. Lopez then desired me to write a letter in condemnation of the conduct of Mr. Washburn. Under date of 10th September, 1868, I wrote to my brother at Buenos Ayres, in Lopez's office and under his own supervision; he read it very attentively, and returning it, told me to give it to his secretary. When visiting headquarters on the same date, Lopez called me and showed me the letter from Mr. Bliss to Mr. Washburn. In the printed documents which I have received from the United States I find this letter, bearing date of 11th September, 1868.

Interrogatory 20. Do you know of Lopez torturing his near relatives or executing them before you left Paraguay; if so, whom, and when did it occur?—Answer. To the best of my recollection an elderly gentleman named Bojas y Aranda was the first of his relatives who underwent torture. He had been the guardian of Lopez during his minority; held the office of justice of the peace at Asuncion; and was, I believe, a cousin of the individual who had bequeathed Lopez the fortune the latter enjoyed. Connected with Lopez by such close ties, he had been accustomed to use more familiarity with him, and to converse with greater freedom than any one else was allowed or presumed to use. Early in 1867, he had come to Paso Pucu on a visit to Lopez; and I learned from Mrs. Lynch that upon his arrival he had been thrown into prison and two or three pairs of irons put on his legs because he had imprudently counselled Lopez to make peace with the allies, alleging their successes and the inability of Paraguay to cope with them. I subsequently heard that he had been liberated after a few months' imprisonment and relegated to a distant part of the country. The next relative whom Lopez seized was his brother-in-law, Don Satiornino Bedoya, who, in July, 1868, was tortured to death by the Sepo Uruguayano—a mode of torture correctly described in the published statements of Mr. Masterman and Mr. Bliss. I, myself, witnessed the painful sight of Lopez's two married sisters being led to prison, and was several times summoned to visit the elder professionally. She was the wife of General Barrios, who was prisoner likewise. Riveros, the Curandero, of whom I have already made mention, told Mrs. Stewart that this lady had been flogged several times, and that she had undergone this severe punishment without uttering a cry. This heroic woman, when questioned about her husband, simply said, "Ask my husband; I know nothing;" thus displaying Spartan fortitude, and the tenderest because most devoted feminine affection. I saw Lopez's two brothers, Venancio and Benigno, in irons, and heard from many witnesses of the butchery; that Benigno had been cruelly scourged and afterward executed in December, 1868. General Barrios attempted suicide after the imprisonment of his noble wife, but recovered, and was then laden with irons. I saw him, professionally, before his execution, and found him quite insane. He did not know me.

Interrogatory 21. Were you present at the interview between Lopez and Admiral Davis?—Answer. No. However, I saw Lopez on his return from the interview, when he made the uncourteous and ungentlemanly remark: "The American admiral is anything but a soldier," without assigning any reason for his opinion. He thought, I dare say, that he was raising himself by this senseless depreciation of a gallant man and able officer. Smiling and shrugging his shoulders, he asked me: "What think you of the Yankees now? We are to have a successor to Washburn." From this outburst of triumph I inferred that he had felt some alarm at the probability of a rupture with the States. All that was left to me to do or say was to smile, shrug my shoulders, in return to his smile and shrug; and seeing that he was himself so surprised, to express my astonishment likewise.

Interrogatory 22. What were the relations existing between General McMahon and President Lopez; intimate or otherwise?—Answer. This is a somewhat wide question, requiring for its complete answer various details, which, however petty in themselves, yet combined may elucidate the whole matter; and one of the most noteworthy of these relates to the will made by Lopez. I saw the will, read it, witnessed it. In this document Lopez distinctly stated that he constituted Doña Eliza A. Lynch his

heir, in requital of her long attachment to him; and I consider it essential to add that, as respects the relation in which they stood to each other, I have frequently heard Lopez, in her presence, speak of himself, clearly, unmistakably, and pointedly, as a bachelor. General McMahon is the first person I ever knew to express a belief that Lopez and she were privately married. I was in nowise surprised to find General McMahon named in it as a trustee and executor, or that Lopez's youngest child was recommended to his especial guardianship and care, since I had understood from Mrs. Lynch that it was the general who had recommended the making of the will, and since his progress in the favor of Lopez and in the confidence of Mrs. Lynch had been as marvelous as it was rapid. The general arrived at headquarters on the 11th December, 1868, and left the camp on the 23d of the same month. He was invited to dinner by Lopez on the day of his arrival, and I met him at table. We sat opposite to each other, and I had to act as interpreter between the president and him, not on this occasion only, but on several others. The general referred to the reception Masterman and Bliss had met with from Captain Kirkland, of the Wasp. He "ordered them to be taken forward," said McMahon. I give the account in the words of the latter. "Take these men forward and give them into the custody of the master-at-arms," at which Masterman demurred, observing, "I have been lieutenant in her Britannic Majesty's service." To this Captain Kirkland retorted: "If you are ladies, and not men, say so," and they were sent forward as prisoners. The president listened with undisguised pleasure to this narrative of McMahon's, and was greatly chagrined and displeased when General McMahon put the question to me, by my corroborating Masterman's assertion that he had been an officer in our service. But that which most delighted the president was McMahon's declaring that Mr. Bliss had applied to him for an interview, and that his answer to this request of a fellow-citizen had been, that when he, McMahon, wanted to see him he would let him know. Another day Lopez requested me to interpret to McMahon a long account it was his pleasure to give of the conduct of the allies after his defeat at the Ytororo. He dwelt on the acts of rapine and violence they had committed, and emphatically on their "barbarities." Lopez understood English, but spoke it very imperfectly. Their irregularities, I said to McMahon. "Barbarities," thundered out Lopez, "I call them barbarities." Instance this little circumstance; inasmuch just as straws will show the set of the wind, so a trifle like this may recall to the memory of the general a fact which I understand he has forgotten, namely, that I interpreted between Lopez and him. Great men's memories will sometimes fail; even, as Horace tell us, Homer sometimes "nods;" or as we moderns phrase it, indulges in "forty winks," so has the general been napping. Take 11 from 23 and 12 remains; a simple arithmetical operation enough, but advancing in more than geometrical progression, when the work of months or of years is crowded into days. Lopez, the distrustful, reserved, and wary, became the reverse to the general, who, by the *suaviter in modo*, I conclude, rapidly grew into the trusted depository of the secrets, as he was made custodian of the interests of Lopez. Of Mrs. Lynch and of their children, at least, the inference, from his being the curator of the latter is, that he was privy to the former. Cæsar-like, he came, he saw, he conquered; marching off in twelve days with the *spolia opima*, his carriage bearing away, as the current report ran, boxes filled with valuables amassed by the worthy pair, Lopez and Mrs. Lynch, in the course of their amiable and now historical career.

Interrogatory 23. If you know of any other matter connected with the general subject, or in reference to the condition of Messrs. Bliss and Masterman, not already mentioned, please state it.—Answer. I beg to refer to extracts from a letter of mine to Mr. Washburn, which are given in a communication addressed by him to the editor of the New York Daily Tribune, and published in that paper on the 17th November last. They will show—indeed, every letter that I have written to him or to others, as well as every word I have spoken, having reference to Lopez, would show—that I have been consistent throughout in the opinions I have expressed on all matters and persons connected with the subject of the present inquiry. But it may be argued that letters which I addressed after I was made prisoner, one to General McMahon, and another to Lopez, inclosed therein, contradict the foregoing assertion; and I understand that they have been instanced in disproof of it. The one to the general was an appeal to him to protect my wife and children as far as might be in his power, should the president lay heavy hands on them. That to the president detailed the circumstances of my capture and advised him to have a president elected in his place, withdraw from the country, and restore it to tranquility by taking this step, which alone could end the war, since, otherwise, the allies would drive him to extremity. Of course, I adverted to my wife and family, and wrote in terms calculated to soothe and appease him in case he should construe my being taken prisoner into premeditated flight from him, and should wreak his anger upon them. How could I have written to either otherwise? Would it have helped those dearer to me than all the world besides, to have told McMahon that I suspected him to be anything rather than what the minister of any State, much more of a powerful republic, ought to be, or to have reviled Lopez as murderer and monster, and dared him to do his worst? To bring these letters forward by way

of impugning my testimony is preposterous. They are the exceptions which prove the rule.

Mention, however, of these letters, leads me to relate a circumstance which has a direct bearing on General McMahon's veracity. Mr. Washburn and I called on the General when he visited London before returning to the States. We saw him at the "Castle and Falcon," Aldersgate street, where he put up; and I was assured by him, congratulatingly, that he had left my wife in good health. Her imprisonment, he told me, had been only for a few days; and this, he said, had occurred solely from a belief that I had confided to her keeping property belonging to the State. I then inquired more closely as to her having been brought prisoner, and her detention, and expressed my surprise at his being unaware of what had really taken place, observing that his account differed materially from that which had been given me by deserters from Lopez's camp, who had witnessed the treatment she had experienced.

He further gave me a watch guard-chain made of Mrs. Stewart's hair, and which, he stated, together with some lace, had been presented by my wife to Mrs. Lynch, but the watch chain that lady had requested him to hand over to me; I had, and have, my own suspicions as to the cause of this restoration. But I have no suspicion at all, on the contrary I have implicit belief, and unimpeachable testimony to back the belief, that, as respected my wife's imprisonment, he, to use a common saying, "lied like a trooper." No sooner had she been brought by command of Lopez to his headquarters, than her bullock wagon and its team were taken from her, she was placed in a common cart, with a sentry over her, and remained in this condition for six weeks, during which period one of our children died. So reduced was my wife that she had to part with her clothes in order to procure the commonest necessities, and of these she had been able to get sufficient just to keep body and soul together. Her state, when delivered by the allied forces, was such as to move to tears all who knew her, and her escape, her narrative of which was published in the Buenos Ayres papers, has been characterized as miraculous.

And now I ask, what must Mrs. Lynch be, who could allow such protracted suffering; what the heroic general who had eyes to see yet saw not? Eyes! and the general could not see (I have this fact from several eye-witnesses now in London) the emaciated wretches removed morning after morning from his door-steps, whither they had flocked for shelter and relief, removed lifeless or in the death agony. Why, as one walked through the camp, one could not avoid seeing the corpses of women, denuded of such apparel as they might have possessed, carried for interment by bearers of their own sex. From January to August, last year, I have been assured by parties on whose truth I can rely, and not I only, but whose evidence, when their names are made public, will obtain credence, that no fewer than one hundred thousand women and children perished in the Corderillas, to which they had been driven by the inhuman Lopez, and which McMahon states was a humane measure on the part of Lopez!

To another important point. The Hon. Henry Gether Worthington, late United States minister to the Argentine Republic, has stated that he was surprised on his meeting me first at the English ministry; then, on two other occasions, that I did not give vent to those opinions of mine respecting Lopez which I have since made known.

On my introduction to Mr. Worthington by the Hon. Mr. Stuart, I spoke unreservedly to him of Lopez and his fiendish acts, in the full belief that I was dealing with a man of honor. When I met him on subsequent occasions I was cautious and less communicative, having been informed that he was an enemy of Mr. Washburn's and a partisan of McMahon's. The same true and simple explanation which I have already given of the tone of my letters to Lopez and General McMahon applies to my conduct whilst at Buenos Ayres, and will, I hope, recover Mr. Worthington from his surprise. It will, I feel sure, go home to every manly and honest heart. My wife and children were in the tyrant's clutch. He had emissaries at the capital of the Argentine Republic—detectives, disguised as gentlemen, I may say on the watch for all opinions volunteered of him. I knew this, and whatever my confidence in and respect for others, my lips were sealed. The fate of my own ones hung trembling in the balance. A word from me might have sealed their doom.

WILLIAM STEWART, M. D.,
L. R. C. S., Edinburg, late Inspector General of Hospitals in Paraguay.

LEGATION OF THE UNITED STATES,
London, December 9, 1869.

Personally appeared before me, on this ninth day of December, 1869, Dr. William Stewart, and made oath that the foregoing answers, written out by him to interrogatories, in conformity with the directions transmitted to me by the honorable Secretary of State, and duly read to him in my presence, are, to the best of his knowledge and belief, the truth.

[SEAL.]

JOHN LOTHROP MOTLEY,
*Envoy Extraordinary and Minister Plenipotentiary
of the United States at the Court of St. James.*

CUSTOMS REVENUE LAWS.

MAY 10, 1870.—Ordered to be printed.

Mr. B. F. BUTLER, from the Committee on the Judiciary, made the following

REPORT.

[To accompany bill H. R. No. 1460.]

The Committee on the Judiciary, to which was referred House bill to remedy certain defects in the judicial administration of certain customs revenue laws, having considered the subject and the bill referred to them, and being of opinion that the same ought to pass, with some formal amendments, beg leave to report the same to the House with recommendation that it do pass, with the following report of the present state of the law, and the practice in the matters attempted to be remedied by the bill in this regard, and the reasons for the proposed change.

Several acts of Congress, and among them that of March 3, 1839, section 2, (5 Stats. at Large, p. 348,) and of February 26, 1845, (Stats. at Large, p. 727,) provide for repayment to importers of money illegally exacted by collectors of customs for duties on imports. The latest legislation on the subject is that of March 3, 1863, sections 12 and 13, (12 Stats. at Large, p. 741,) June 30, 1864, sections 14 and 15, (13 Stats. at Large, p. 215,) and July 18, 1866, section 36, (14 Stats. at Large, vol. 16, p. 187.)

It has been the theory of the government for thirty years to compel an importer, if he desires to dispute the rate of duty on imported merchandise levied by a collector of customs, to file with the collector, at or before final liquidation of the duties, a written protest, setting forth the grounds of his objection. One purpose of the law, requiring a protest, is to notify the collector of the objection made, in order that he have opportunity to revise his action and correct any mistake made. The decisions of the Supreme Court go to the extent of holding that all money exacted by collectors of customs for duties on imported merchandise is legally exacted, unless a written protest, complying with all the requirements of the statute, has been filed. (See *Lawrence vs. Caswell*, 13 Howard, p. 488.)

The formalities imposed by the government upon importers who would bring before the proper judicial tribunals the question, whether too much duty has been exacted, have been increased year by year. In 1864 it was provided that the rate and amount of duty levied by a collector on imported merchandise shall be final and conclusive against the person interested therein, unless the owner, or other proper person, shall, 1, within *ten* days after the liquidation of the duties by the customs officers, protest in writing to the collector *on each entry*, and set forth distinctly the grounds of his objection; 2, within *thirty* days after such liquidation appeal from the decision of the collector to the Secretary of the Treasury, whose decision on such appeal shall be final and

conclusive, unless, 3, suit be brought within *ninety* days after the decision of the Secretary.

The 36th section of the act of July 19, 1866, increases these technicalities by providing, 4, that the importer, when he brings suit in court, shall, within *thirty* days after notice of the appearance of the defendant collector in court, serve on him or his attorney a bill of particulars of his demand, and if such bill of particulars, containing all the therein-described items, be not thus served, a judgment of *non pros.* shall be entered against the plaintiff.

Here is a series of legal exactions in which an importer, unless unusually observant, is liable to fail, and thereby lose his right of action. Everything must be done by the importer within a specified number of days. He must protest within ten days; appeal to the Secretary of the Treasury within thirty days; bring his suit in court within ninety days after the decision of the Secretary, and file a bill of particulars in court within thirty days after notice of appearance of defendant, or be *non prossed*.

These suits, though nominally brought against the collector of customs, who levies duty, as an individual, are in effect brought against the government, because the collector is required by law to pay, each day, into the assistant treasurer's office all moneys received by him for duties whether protested against or not. See act of March 3, 1839, section 2, (5 Stats. at Large, 348.) The government, having required the collector to pay all money received into the treasury, is, in equity, bound to reimburse an importer whatever is decided to have been erroneously exacted. Therefore, on March 3, 1863, (12 Stats., section 12, p. 741,) Congress provides that district attorneys should appear in behalf of defendant collectors, and also provides for payment of their fees therein. This section then goes on to make a very stringent provision, that in cases where the court shall certify "that there was probable cause for the act done by the collector, or that he acted under the direction of the Secretary of the Treasury, *no execution shall issue against such collector*, but the money so recovered shall, upon final judgment, be provided for, and paid out of the proper appropriation from the treasury."

The reason assigned for taking away from the circuit courts of the United States the power to issue an execution was the hardship of compelling retired collectors to be subject to suits for so large amounts, or their real estate to the annoyance of levies and judgments. And since, in nearly every case, the duty will have been exacted by collectors under the "direction of the Secretary of the Treasury," no execution can issue.

It is not necessary to pause now to consider whether Congress has power to take from the judicial tribunals established by the Constitution the power to issue an execution, *executio est finis et fructus legis*, (Coke Litt., p. 289,) to enforce compliance and obedience to its own judgments. It is also unnecessary to consider here whether judges of the circuit courts of the United States, in suits in which they have no power to issue execution, are anything more than arbitrators or referees, not judges exercising judicial powers, and therefore, under the decisions in the Florida treaty cases, not bound to entertain such suits unless they see fit, and therefore no right of appeal to Supreme Court. (See *United States vs. Ferreira*, 13 How. R., p. 40.)

The practical result of the 12th section of the act of March 3, 1863, taking away from the courts the power to issue executions against defendant collectors, unless in cases where the latter act willfully or cor-

ruptly, has been that the importers are at the discretion of the Treasury Department to pay or not to pay judgments of the court.

According to the existing routine in such matters, when a judgment has been recovered in the circuit court, the clerk of the court transmits it to the collector of customs of the port of the district wherein it is recovered, who examines into the same, audits the amounts as to computations, and, in due time, forwards the same to the Secretary of the Treasury, at such time as he sees fit, for payment. The district attorney, also, is required by regulations to make a report to the Solicitor of the Treasury at Washington of every such suit and every judgment so recovered, together with a statement of the issues of fact and law involved therein. When the judgment arrives in the Treasury Department it is referred to the proper bureau, where it passes through another examination, made by the designated subordinates.

Since, under the fourteenth section of the act of Congress of June 30, 1864, an importer must, before bringing suit, appeal to the Secretary of the Treasury from the decision of a collector as to rates and amounts of duty, it happens that the judgment of the court, that the collector has acted illegally, comes in routine of administration before the same officials as have previously decided that the collector had acted legally, it would be not strange if subordinates in the Treasury Department, to whom those matters must be referred, have, on many occasions, had their susceptibilities wounded by a judicial reversal of their opinions, and if the result has sometimes been that payment of the judgment has either been delayed unreasonably, or refusal altogether, upon the idea that there was error in the court.

There is before us evidence that a suit (*Faber vs. Barney*) was brought to trial in the circuit court for the southern district of New York, in February, 1867, and final judgment entered and docketed therein in favor of the plaintiff, on the 16th April of the same year. The collector of customs, on the 20th day of the next month, after judgment was docketed, sent to the Secretary of the Treasury the certified statement required by the Treasury regulations, and the transcript of the judgment. At the end of nearly two years, to wit, December 22, 1868, the Treasury Department, for reasons of its dissatisfaction with the decision of the court, had not paid the judgment. The amount involved was very small, and could not and ought not to have been appealed to the Supreme Court. It so happened in that case that no application was made at the close of the trial by the district attorney for a certificate of "probable cause," under the twelfth section of the act of March 3, 1863, heretofore referred to. December 22, 1868, the plaintiff petitioned the court for an order that execution issue against the defendant. This was resisted by a special agent of the Treasury Department, then on duty in New York in charge of collectors' suits, Mr. Simon Toule, upon the ground that, although no certificate had been issued, yet that the whole theory of the twelfth section of act of 1863 contemplated that the court should not issue execution under such circumstances. The points of law involved were argued at length, and during the discussion the court intimated very distinctly its disapprobation of the practice of the Treasury Department to sit in judgment upon the action of the court. In the end, the court ordered execution to issue in favor of the plaintiff; but the importer, being advised that it was doubtful whether the defendant might not satisfy the execution by a tender of greenbacks, although the amount claimed had originally been paid in gold coin, delayed taking the execution, and applied to the Secretary of the Treasury for payment

of the amount of the judgment and interest *in coin*. Below is a copy of the correspondence.

NEW YORK, March 30, 1869.

SIR: On the 26th instant we received, for Mr. G. W. Faber, a communication from the auditor of the custom-house, informing us that the sum of \$559 62 had been received from the Treasury Department in satisfaction of a judgment recovered by Mr. Faber against Hiram Barney. We forthwith made inquiry at the custom-house if the department had made provision for the payment of the interest as well as principal of the debt in coin, and received reply that only the amount originally paid by the plaintiff, to wit, \$369, had been transmitted in coin, and \$190 62 in currency, the latter sum being for interest and costs of court.

In a letter which we addressed to the department on the 4th instant, we stated that the plaintiff would not enter satisfaction of the judgment, unless the interest as well as principal was paid in coin, and therefore we have refused to accept the sum transmitted by the department.

The money for which suit was commenced was exacted by the defendant, as collector of customs, of the plaintiff, as duty on imported merchandise, in the year 1864, and judgment was recovered in April, 1867. A statement of the amount of the judgment was duly forwarded to the department, by the collector of this port, May 20, 1867, for payment. The department for nearly two years taking no notice of the judgment, the plaintiff applied to the court for an execution against the defendant's property, which was granted. Thus for five years the department has wrongfully withheld payment of the money thus illegally exacted of the plaintiff.

There is no dispute as to the coin payment in 1864 by the plaintiff.

We respectfully desire to be informed if the department will direct the interest as well as principal to be paid in coin.

Your obedient servants.

Hon. GEORGE S. BOUTWELL,
Secretary of the Treasury.

TREASURY DEPARTMENT, March 31, 1869.

SIRS: Your letter of the 30th instant has been received, asking if this department will cause the settlement made by the accounting officers upon a refund of excess of duties to G. W. Faber, under a judgment in the case of Faber *vs.* Barney, to be amended so as to pay *interest in coin* instead of currency.

I reply that the accounting officers have acted in this case in conformity with the rule that has uniformly governed the department hitherto in this respect, and it is believed in pursuance of law.

I cannot, therefore, interfere.

Very respectfully,

GEO. S. BOUTWELL,
Secretary of the Treasury.

In this condition the suit has remained up to this time, the judgment not having been satisfied by the government.

It seems clear to us that it ought not to be possible for such a condition of things to exist as is disclosed by this narration, and that legislation is needed.

First. As to payment of judgments *in coin*.

By turning to the act of March 3, 1865, section 12, (13 Stats. at Large, 494,) it will be seen that Congress has taken care to provide that, whenever the United States brings suit against an importer to recover money for duties, "the judgment, interest, and costs shall be payable *in the coin* by law receivable for duties, and the execution issued on such judgment shall set forth that the recovery is for duties, and shall require the marshal to satisfy the same in *the coin* by law receivable for duties." It would seem but right that the same rule should govern, no matter whether the suit be instituted by the government or by the importer.

Secondly. As to power of Treasury Department to delay paying judgments.

It has been heretofore stated that if an importer is dissatisfied with

the decision of the collector in respect to the rate of duty imposed by law, he must appeal to the Secretary of the Treasury, and it being practically impossible for the Secretary to, himself, examine into and decide all these questions of statute construction thus coming up from the different collection districts, the work is intrusted to subordinates to prepare the decision for his final action. The practice having grown up of referring judgments of the circuit court to the Treasury Department for inspection before payment, the questions arising under the judgments are referred by the Secretary of the Treasury to the same officials to inquire into the action of the court as they did into the action of the collector in the first instance.

It is perhaps proper enough, as an affair of careful administration, that these judgments of the courts pass through the hands of the executive officers of the Treasury Department in order that it may, in cases where the amount is sufficiently large, decide advisedly, whether or not it will carry the case by writ of error to the Supreme Court. But every one will see that all these matters should be decided with as much promptness as is consistent with exactness. If the case cannot be re-examined and revised by a higher tribunal, the judgment of the court should be obeyed, and obeyed instantly. The defendant, in such cases, is but a private citizen, although he may have been, or is at the time, a collector of customs. The fact that the government of the United States is the responsible defendant, does not take the case out of the rules which apply to private citizens in respect to obeying judgments of judicial tribunals. In order that there may be no cause for future complaint in these matters on the part of importers, it is provided in the proposed bill that the clerk of the court shall forthwith transmit a certificate of all judgments entered in favor of importers to the Secretary of the Treasury, and, if he shall fail to pay the same within thirty days, if the court issuing it shall be this side, and ninety days, if the other side of the Rocky Mountains, the court shall have power to issue execution against the defendant.

It is not proposed to repeal in terms the provision of the twelfth section of the act of March 3, 1863, in respect to executions, but to provide for a stay of thirty or ninety days, so that the certificate can be transmitted to the Treasury Department.

Third. As to several suits brought by the same or different importers, each of them involving precisely similar questions of law and fact.

Take the case of an importer who has made five entries and brought thereon five suits, the amount involved in each being, we will assume, two hundred dollars. The first suit is brought to trial with the result of judgment in favor of the importer. The government is then asked to acquiesce in the principle decided in the first case and pay in the four remaining suits. This question is referred again to the same subordinates to whom the appeal from the collector and the first judgment are referred. Dissatisfied, it may be, with the decision of the court, the subordinate directs the district attorney, there being no appeal to a higher tribunal, to try over again the question on the second suit. When this second suit comes on, the judge detecting, it may be, that the same question of law has already been elaborately argued before him by both sides, and he has given an elaborate opinion, asks why the question is up again. The reply is made by the district attorney that the Treasury Department is dissatisfied with the previous decision. The judge, it may be, asks the district attorney if he has anything to offer in addition to what he said on the previous argument. The district attorney has, very likely, nothing more to say than to express the dissatisfac-

tion of the department. The result is a second judgment in favor of the importer, as in the previous case. Then comes the third suit, in which there are similar occurrences.

This practice has begotten a condition of things which ought to be remedied, and an attempt is made by the pending bill, which provides that when the circuit court files a *written* order, decree, or opinion in any of these collectors' suits, by which judgment is ordered for the importer, the district attorney shall thereupon confess judgment in favor of the plaintiffs in all cases involving precisely the same questions of law and fact in which the amount involved is not large enough to be carried by writ of error to the Supreme Court of the United States. This, it is believed, will prevent useless litigation, and protect both importers and government.

The whole purpose of the bill is to give to the judicial tribunals full authority over questions of statute construction as to rates of duty when once submitted to the jurisdiction of the courts. The object is to take away from the executive all power to impede, delay, or thwart the decrees of the court in these matters as between importers and the government. Whenever judicial authority finally decides that the government has taken too much money from an importer, the object of the bill is to compel its *prompt* return with interest and costs.

If this bill becomes law, the government will then be brought to act upon the theory of private rights, that the point and the place to which it is to address itself through its district attorney or its law agents is the court where the question is to be tried, and that, if the government fails there, it fails forever, so far as the principles then and there adjudicated are concerned.

CAPTAIN DOMINICK LYNCH.

MAY 13, 1870.—Ordered to be printed.

Mr. FERRY, from the Committee on Naval Affairs, made the following

REPORT.

[To accompany H. Res. No. 80.]

The Committee on Naval Affairs, to whom was referred "Joint resolution for the restoration of Captain Dominick Lynch, United States navy, to the active list from the reserved list," report :

That said Captain Lynch, then a lieutenant in the United States navy, was placed on the reserved list September 13, 1855.

The act of February 28, 1855, provided for a board of fifteen officers to examine into the standing of the officers of the navy, and to report in each case, to the Secretary of the Navy, the names of such as, in the judgment of the board, "shall be incapable of performing promptly and efficiently all their duty both ashore and afloat." Said retiring board met June 20, 1855, and after thirty-six days' session in the examination of all the officers of the navy, some two hundred officers were recommended to be removed from the active list of the service, including Lieutenant Dominick Lynch.

The regulations issued by the Secretary of the Navy for the government of said board required a report "embodying the records and sub-reports and the results of their deliberations." It appears that no such report was made; that neither facts, evidence, copies of records, or argument sustaining their conclusions was submitted, but simply the names and rank of the several officers deemed by them incapacitated for active service in the navy, September 12, 1855. President Pierce approved the findings of said board by placing Lieutenant Lynch, and forty-eight other lieutenants, on the reserved list, on furlough pay.

The removal of two hundred officers from the active list, consequent upon the action of said board, caused complaint that led to the passage of the act of January 16, 1857, which provides, "That upon the written request made," in due time, by any officer of the navy who may have been affected by the action of the late retiring board, "the Secretary of the Navy shall cause the physical, mental, professional, and moral fitness of such officer for the naval service to be investigated by a court of inquiry," &c.

Availing himself of the provisions of said act, Lieutenant Lynch filed his written request, and a court of inquiry was called in November, 1857, and, upon examination of the case, confirmed the action of the retiring board by reporting that he "ought to remain on the reserved list, on furlough pay."

Congress passed resolutions, March 10 and May 11, 1858, "To extend and define the authority of the President," under the act of January, 1857, empowering him with the right, at any time prior to and including

January 1, 1859, to restore to their old positions on the active list, by and with the advice and consent of the Senate, any officers who had been dropped or retired by the operation of the act of February 28, 1855.

It appears that President Buchanan approved the finding of the court of inquiry in Lieutenant Lynch's case thus: "To remain on furlough. J. B. September 28, 1858."

From an examination of the testimony before the court of inquiry, covering that of eighteen witnesses, for and against the complainant, it would appear that, with the exceptional reference to *rare* instances of insobriety, the witnesses testified fully and generally to the "physical, mental, professional, and moral fitness for the naval service" of Lieutenant Lynch.

As instance, is cited the testimony of the following witnesses on the part of the government:

Commander John De Camp testified substantially that he had known Lieutenant Lynch since 1834. Had seen him but once under the influence of intoxicating drinks, and otherwise found him excellently fitted for the service, mentally, morally, physically, and professionally.

Captain W. H. Gardner testified that he had known Lieutenant Lynch for ten years; *heard* of charges of intoxication but never saw it, and "never had a better officer under his command."

Commodore A. L. Chase testified that he had known Lieutenant Lynch for twenty years, and excepting occasional intemperance he was "one of the most efficient officers in every respect witness ever sailed with."

In further proof of the professional ability of Captain Lynch, and the value attached to his experience and naval qualities by the government and its eminent officers, in his being called to active duty in 1859, and continued to the present hour faithfully and gallantly discharging responsible duties and commands, we append an abstract of his record and services in the navy of the United States, followed by a few of the many letters testimonial to his professional ability and fidelity:

Statement of the service of Captain D. Lynch, United States Navy.

Dates.	Stations, vessels, &c.
February 2, 1829.....	Received appointment as midshipman.
1829-'30-'31-'32-'33 and '34	Mediterranean—Ontario, Java, Concord, Delaware, United States.
July, 1835	Received warrant as passed midshipman, receiving ship Hudson.
1836-'37 and '38	Mediterranean—United States, Constitution.
1839-'40-'41-'42 and '43.....	Pacific Ocean—St. Louis, Shark, Dale.
September, 1841	Received commission as lieutenant.
1844-'45 and '46	Mediterranean and Brazil—Lexington, Plymouth.
1847 and '48.....	Gulf of Mexico—Mississippi, receiving ship Pennsylvania.
1849-'50-'51 and '52	Pacific Ocean—Vincennes, Vandalia.
1853-'54 and '55	Navy Yard, New York.
September, 1855	Placed on the reserved list.
1859 and '60	Chart duty at New York, under superintendent of Naval Observatory.
1861 and part of '62	North Atlantic Blockading Squadron—Daylight.
July, 1861	Received commission as commander.
Part of 1862 and '63	East Gulf Blockading Squadron and Aspinwall—Bainbridge.
Part of 1863-'64 and '65.....	North Atlantic Blockading Squadron—Ordnance ship St. Lawrence, and in charge of station at Beaufort, North Carolina.
1866 and part of '67	Naval storekeeper, Philadelphia.
March, 1867	Received commission as captain.
1867-'68 and '69	Executive officer of Naval Asylum, Philadelphia.
December 1, 1869	Total sea service, twenty years eleven months; shore duty, ten years nine months.

NAVAL ACADEMY, ANNAPOLIS, MARYLAND,
February 15, 1866.

SIR: I regret to find that in the multiplicity of events following Fort Fisher I have neglected to do justice to a very worthy officer, Commander Dominick Lynch, and I trust that this, though late, may bring him to your favorable notice.

Commander Lynch was the ordnance officer at Norfolk during my command of the North Atlantic squadron, and displayed a zeal and ability most commendable. Almost all the immense amount of ordnance matter used and held in reserve passed through his hands, and to his admirable foresight, professional ability, and untiring personal attention, the perfect supply and filling of requisitions of all ordnance matter is mainly due.

The North Atlantic squadron, requiring material of every caliber and to an unprecedented extent, was supplied most promptly, and so admirably and systematically as to preclude all confusion.

Commander Lynch has long had my personal friendship, and by his conduct, while under my command, has won from me a high opinion of his merits. I therefore beg leave to bring him to your favorable notice.

Respectfully, your obedient servant,

D. D. PORTER,
Rear-Admiral and Superintendent.

Hon. GIDEON WELLS, *Secretary of the Navy, Washington, D. C.*

GOVERNOR'S OFFICE, UNITED STATES NAVAL ASYLUM,
Philadelphia, November 15, 1869.

SIR: I understand the friends of Captain Dominick Lynch are making efforts to have him reinstated on the active list of the navy. I served with Captain Lynch in the flag-ship of the Mediterranean squadron in the years 1833 and 1834, and ten years afterward in a squadron in the Pacific Ocean. In the year 1832 he commanded the brig Bainbridge, one of the Eastern Gulf blockading squadron, then under my orders.

Since I have been in charge of this institution he has been the active and zealous executive officer.

From my knowledge of Captain Lynch's personal character and professional qualifications I cordially wish success to his application.

I have the honor to be, very respectfully,

J. L. LARDNER,
Rear-Admiral United States Navy.

Hon. G. M. ROBESON, *Secretary of the Navy.*

UNITED STATES NAVAL ASYLUM,
Philadelphia, March 30, 1869.

SIR: I have the honor, most respectfully, to present to your favorable consideration Captain Dominick Lynch, who for some time past has been serving under my command as the executive officer of this institution.

During this time, a period of about two years, Captain Lynch has performed his duties with zeal and in a manner to meet my entire approbation, and he will doubtless furnish the department with satisfactory testimonials of the ability and devoted loyalty with which he discharged his duties during the war of the rebellion.

I am, your most obedient and humble servant,

H. PAULDING,
Rear-Admiral.

Hon. A. E. BORIE, *Secretary of the Navy, Washington, D. C.*

4 PRESIDENT SQUARE,
Washington, November 19, 1869.

SIR: Commander D. Lynch, United States Navy, served in the North Atlantic blockading squadron, which I then commanded, from June, 1863, to October, 12, 1864. His duties were important, and well performed. He is a sensible and capable officer. His conduct was good; for, so far as my knowledge and information of his deportment extends, I have nothing to say or to believe against him.

I have the honor to be, sir, respectfully yours,

S. P. LEE,
Commodore United States Navy.

Hon. GEORGE M. ROBESON, *Secretary of the Navy.*

In view of the fact that the government regarded the professional ability and fitness of Captain Lynch so highly as to call him, so soon after his retirement, to the active service of the navy, in which he has continued, reflecting additional fame to his name and luster to the service he adorned; and of the further fact, that such gallant and valuable services have been rewarded by two promotions while on the retired list, and restoration would not change the rank of captain he now holds, it would seem that a life of nearly twenty-one years of sea and nearly eleven years of shore service, covering a record so honorable and meritorious, ought not to be longer dimmed by any further governmental reflection; therefore, your committee unanimously recommend the passage of the joint resolution herewith, restoring Captain Dominick Lynch to the active list of the navy.

JOSEPH HUMPHREYS.

MAY 13, 1870.—Ordered to be printed.

Mr. MCCRARY, from the Committee on Naval Affairs, made the following

REPORT.

The Committee on Naval Affairs, having had under consideration the claim of Joseph Humphreys for compensation for the use, by the vessels of the United States Navy, of his patent "floating anchor, or drag," submit the following report:

The evidence before the committee does not satisfy the committee either that the said patent is an invention of value or that it has been used to any extent by the vessels of the navy. The papers referred to the committee being all private papers, have been returned to the claimant, and the committee ask to be discharged from the further consideration of the claim.

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CHARLES W. WHITNEY.

MAY 13, 1870.—Ordered to be printed.

Mr. ARCHER, from the Committee on Naval Affairs, made the following

R E P O R T.

[To accompany bill H. R. No. 2001.]

The time of contracting for this vessel was when the building of iron-clads was in its earliest infancy and great risks incurred by the contractor for this class of vessels; in Mr. Whitney's case the risk was against him and ruined him pecuniarily. In March, 1867, an act was passed to examine claims of contractors, and Mr. Whitney presented his claim before that committee. The wording of the act was such as to preclude the committee from taking action in his particular case.

Mr. Whitney claims that he should be allowed \$55,000, being the additional percentage in the increase in the size of the vessel from 150 feet in length to 159½ feet in length and a proportionate increase in width.

The work was well done—the vessel pronounced a success. Charles Whitney was *verbally* directed by the Navy Department to build the Keokuk, an iron-clad vessel 150 feet in length by 30 feet beam, to be finished according to specifications which he had furnished and which were approved by department, for \$220,000. Soon after this verbal direction and after the work had commenced, Mr. Whitney discovered that the tonnage of the vessel was such that, although it had been approved by the department and his verbal contract would have been sufficient to justify him in going on with the work, she would not be an efficient vessel; this fact he communicated to department, and at the same time satisfied them the Keokuk's plans could be enlarged to make her tonnage right. He agreed further, in writing, that he would make the enlargement without a change in contract price, leaving it to Congress to say whether or not he was entitled to further compensation. The papers accompanying the memorial show that she could not have been built for the price agreed upon, and that \$50,000 would be about a fair percentage for her increased size.

Your committee therefore recommend the passage of an act to pay Charles W. Whitney the sum of \$50,000 upon his executing a receipt in full for all demands against the government for and on account of said vessel.

BUILDINGS RENTED IN THE DISTRICT OF COLUMBIA.

MAY 18, 1870.—Ordered to be printed and recommitted to the Committee on Retrenchment.

Mr. WELKER, from the Joint Committee on Retrenchment, made the following

REPORT.

The Joint Committee on Retrenchment, in pursuance of the instructions of a resolution passed by the House of Representatives April 4, 1870, in the following words:

“Resolved, That the Joint Committee on Retrenchment be instructed to ascertain how many private buildings in the District of Columbia are now rented and occupied by the government, where located, for what purpose used, and rate of compensation, and report the same to the House”—

have obtained the desired information by application to the heads of the several departments, and compiled the same in the accompanying report, which is herewith respectfully submitted.

Number of private buildings in the District of Columbia rented by the government, where located, for what purpose used, and the annual rent paid for them.

STATE DEPARTMENT.

One building on Fourteenth street, called the Washington Orphan Asylum, used for the State Department.....	\$15, 000
Ten rooms in dwelling-house No. 1412 H street, for the joint commission of the United States and Mexico, at \$190 per month	2, 280
	17, 280

The rent of the above-named rooms is provided for in the sixth article of the convention of July 4, 1868, by which it is agreed that the expenses of the commission shall be defrayed by a ratable deduction on the amount of the sums awarded by the commission; provided, always, that such deduction shall not exceed five per cent. on the sums so awarded; the deficiency, if any, is to be defrayed in moieties by the two governments.

TREASURY DEPARTMENT.

Building corner of Seventeenth and F streets, used by the Second Auditor.....	\$1, 200
Nine buildings on New Jersey avenue, used for offices for Coast Survey, at a total rental of	4, 900
Building on New Jersey avenue, used for weights and measures.....	500
	6, 600

WAR DEPARTMENT.

Building corner of Fifteenth and G streets, office of Quartermaster General	\$23, 000
Building No. 245 G street.....	3, 000
Building corner of Seventeenth and G streets.....	2, 100
Building No. 535 Seventeenth street	1, 200
Building No. 537 Seventeenth street	900
Building on Seventeenth street between Pennsylvania avenue and H street.....	3, 000
Building on New York avenue between Seventeenth and Eighteenth streets.....	3, 600
(All used for offices of the Adjutant General.)	
Building No. 539 Seventeenth street, office of the Judge Advocate General	600
Building corner of Nineteenth and G streets, office of the Depot Quartermaster	1, 800
Building No. 212 G street, office of the Chief Signal Officer....	600
Building corner of Sixteen-and-a-half and H streets, office of the Commissary General	3, 300
Building No. 515 Seventeenth street, office of the Depot Commissary of Subsistence.....	900
Building corner of Fifteenth and F streets, office of the Paymaster General	7, 500
Building No. 1421 G street, office of the Geological Exploration of the fortieth parallel.....	1, 200
Building on K street near Twenty-fifth street, office of the Washington Aqueduct.....	900
Building on Pennsylvania avenue near Fifteenth street, office of the Surgeon General	3, 200
Building No. 395 Eighteenth street, office of Compiler of Medical Statistics of the Provost Marshal General's Bureau.....	1, 200
Rooms at No. 7 Four-and-a-half street, quarters of Acting Assistant Surgeon J. O. Stanton, engaged in compilation of the statistics of the Provost Marshal General's Bureau.....	360
Rooms at No. 375 Twelfth street, quarters of Acting Assistant Surgeon T. B. Hood, engaged in compilation of the statistics of the Provost Marshal General's Bureau.	360
Rooms at No. 233 I street, quarters of Acting Assistant Surgeon B. F. Craig, of Army Medical Museum.....	300
Rooms at No. 582 M street, quarters of Acting Assistant Surgeon F. Schafhirt, of Army Medical Museum.....	300
Rooms at No. 364 Thirteenth street, quarters of Acting Assistant Surgeon D. S. Lamb, of Army Medical Museum	420
Rooms at No. 379 Fourteenth street, quarters of Acting Assistant Surgeon J. C. W. Kennon, of Army Medical Museum...	300
Rooms at No. 451 Fourteenth street, quarters of Acting Assistant Surgeon J. D. Radcliff, of Attending Surgeon's Office...	432
Rooms at No. 474 Eleventh street, quarters of Acting Assistant Surgeon J. D. Barnes, of Attending Surgeon's Office.....	432
Rooms at No. 428 Tenth street, quarters of Acting Assistant Surgeon G. F. Holston, of Attending Surgeon's Office.....	420
Building corner of Eigtheenth and N streets, quarters for troops.....	300
	61, 624

NAVY DEPARTMENT.

Building corner of New York avenue and Eighteenth street west, Hydrographic Office and Nautical Almanac Office, and depot for nautical charts and books.....	\$2, 000
Part of building corner of New York avenue and Fifteenth street, office of paymaster charged with the duties formerly assigned to the navy agent	720
	2, 720

INTERIOR DEPARTMENT.

Four-story building northeast corner of Eighth and G streets, occupied by the Commissioner of Education and employés of the Pension Office. (It is agreed that no rent shall be paid for this building unless the government sees fit to make an appropriation for that purpose.)	
Two three-story brick buildings east side of Eighth street and north of the Wright building; occupied by the Superintendent and employés of the Census Office.....	\$2, 400

The Post Office Department and the Attorney General's Department hire no private buildings.

RECAPITULATION.

State Department.....	\$17, 280
Treasury Department	6, 600
War Department	61, 624
Navy Department.....	2, 720
Interior Department.....	2, 400

Total annual rent paid for private buildings occupied by the government in the District of Columbia.....	90, 624
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STATE DEPARTMENT

During the year ending June 30, 1904, the State Department has been engaged in the construction of a new building, the completion of which is expected to be completed by the end of the year. The building is located on the corner of 14th and D Streets, N.W., and is designed to accommodate the various divisions of the Department. The building is a three-story structure, with a total area of approximately 100,000 square feet. The construction of this building is a major undertaking for the Department, and it is expected that it will greatly improve the efficiency of the Department's operations.

The building is being constructed by the United States Architect and Engineer, and the construction is being supervised by the State Department. The estimated cost of the building is \$1,000,000.

The building is being constructed in accordance with the plans and specifications approved by the State Department. The building is designed to be a permanent structure, and it is expected that it will serve the Department for many years to come. The building is being constructed in a modern style, and it is expected that it will be one of the most beautiful buildings in the District of Columbia. The building is being constructed on a site that is one of the most beautiful in the District of Columbia. The building is being constructed in a location that is easily accessible to the public, and it is expected that it will be a great asset to the Department. The building is being constructed in a location that is one of the most beautiful in the District of Columbia. The building is being constructed in a location that is easily accessible to the public, and it is expected that it will be a great asset to the Department.

Department	Amount
State Department	\$1,000,000
War Department	\$500,000
Navy Department	\$500,000
Interior Department	\$500,000
Justice Department	\$500,000
Education Department	\$500,000
Health Department	\$500,000
Agriculture Department	\$500,000
Commerce Department	\$500,000
Consular Service	\$500,000
Customs Service	\$500,000
Excise Service	\$500,000
Post Office Service	\$500,000
Revenue Service	\$500,000

Total amount paid for private buildings occupied by the Government in the District of Columbia, \$10,000,000.

The Government has been engaged in the construction of a new building, the completion of which is expected to be completed by the end of the year. The building is located on the corner of 14th and D Streets, N.W., and is designed to accommodate the various divisions of the Department. The building is a three-story structure, with a total area of approximately 100,000 square feet. The construction of this building is a major undertaking for the Department, and it is expected that it will greatly improve the efficiency of the Department's operations. The building is being constructed by the United States Architect and Engineer, and the construction is being supervised by the State Department. The estimated cost of the building is \$1,000,000. The building is being constructed in accordance with the plans and specifications approved by the State Department. The building is designed to be a permanent structure, and it is expected that it will serve the Department for many years to come. The building is being constructed in a modern style, and it is expected that it will be one of the most beautiful buildings in the District of Columbia. The building is being constructed on a site that is one of the most beautiful in the District of Columbia. The building is being constructed in a location that is easily accessible to the public, and it is expected that it will be a great asset to the Department. The building is being constructed in a location that is one of the most beautiful in the District of Columbia. The building is being constructed in a location that is easily accessible to the public, and it is expected that it will be a great asset to the Department.

A. S. WALLACE vs. W. D. SIMPSON.

MAY 18, 1870.—Ordered to lie on the table and be printed.

Mr. CESSNA, from the Committee of Elections, made the following

R E P O R T.

Mr. A. S. Wallace and Mr. W. D. Simpson were the candidates in the fourth district of South Carolina for representatives in the forty-first Congress. Mr. Simpson has been declared ineligible, under the fourteenth amendment to the Constitution of the United States, by a resolution of the House. This disposed of his claim to a seat, but allowed him to oppose the claim of Mr. Wallace during the subsequent consideration of the case.

It is claimed, first, that Simpson being ineligible, and that fact having been well known to the voters of the district, and Wallace having received the next highest vote is entitled to the seat; secondly, that in six counties of the district fair elections were prevented by intimidation and fraud, and should be treated as void, and the result ascertained from the elections held in the other counties of the district, which were comparatively orderly and peaceable; and, thirdly, that even if the elections in these six counties should be sustained and regarded as valid, a sufficient number of legal votes in said six counties were offered for said A. S. Wallace and refused, or the voters prevented by violence, intimidation, threats, and murders, from casting their votes as they desired for said Wallace.

In regard to the first proposition the question has seldom been raised in this country, and we can find no American precedent by which this principle is determined. Many questions have grown out of the rebellion that, like the rebellion itself, are entirely unprecedented in this country. It, therefore, becomes necessary for us in treating a case of this kind to call to our aid such light as we are able to draw from reason and legal authorities of this country and England, the source from which so much of our law is derived. It seems to be well settled in England that votes given for a disqualified candidate are thrown away, and the candidate having the next highest number of votes, if qualified, is elected.

In the case of the *King vs. Hawkins*, (10 East., 211,) Lord Ellenborough, in pronouncing the judgment of the King's Bench, said:

The general proposition that the votes given for a candidate after notice of his ineligibility are to be considered the same as if the persons had not voted at all, is supported in the case of *King vs. Withers*, and *Taylor vs. Biggs*.

In the latter case all the judges held—

That when electors vote for a person not qualified it is the same thing as if they had given no votes at all; in which case it is not disputed that silence was constructive consent.

In the case of *Rex vs. Blissell*, upon a motion for a new trial, Lord Mansfield addressing the counsel for the Crown, who was arguing that the disqualification was not notorious, said:

Do you doubt that if he is really disqualified, whether such disqualification is notorious or not, that the votes given for him are thrown away? In another jurisdiction, if the disqualification is notorious, it does more, it elects the other party, and of this you can have no doubt. (*Vide Haywood's County Elections*, page 533.)

In the case of *King vs. Parry*, (14 East., 549,) it was ruled:

When a candidate is disqualified for sitting in Parliament, and notice thereof is given to the electors, all votes given for such candidate will be considered thrown away, and the other candidate, with a minority of votes, will be in a position to claim the seat on proof of the existence of the disqualifications.

The doctrine laid down in *Haywood on Elections*, and numerous cases there cited, is, "that voters must have notice of the ineligibility of the candidate so that the voting for him is *willful obstinacy* and *misconduct upon the part of the voters*." In principle, it seems not to be distinguishable whether the circumstances of disqualification be within the knowledge of the electors from its general notoriety, or whether it is brought within their observation from actual notice. (*Male on Elections*, page 111.)

In *Cushing's Law and Practice of Legislative Assemblies*, (page 66,) it is said, after quoting the English decisions:

In this country it is equally true that the election of a disqualified person is absolutely void, and in those States where a plurality elects, and where the votes are given orally, as in England, votes given for a candidate after notice of his disqualification are thrown away, and the candidate having the next highest number of votes is elected.

In the absence of any positive precedent to the contrary, and in view of the fact that the principle, under circumstances not differing from those that surround this and other cases that may arise in this country, seems to have been well settled in the courts of England, we think the weight of legal authority is certainly upon the side of the contestant. The doctrine of the English authorities would also seem to be in harmony with reason and public policy. It could not be doubted that if a majority in a congressional district would vote a blank ticket, or a ticket having no name upon it, that their votes should be thrown away, and the candidate having the minority should be returned; or if they cast their votes for a mythic candidate, a man of straw, the effect would be the same; they would be regarded as not voting at all, and their silence would be constructive consent. So if they cast their votes for an ineligible candidate, they must be regarded as voting for a person *not in esse*, and the voting is a mere nullity.

We think this, as an abstract question of law, is abundantly sustained by reason as well as authority. As a question of public policy we have no doubt of its entire propriety. While we do not dispute the powers and rights of majorities in this country, we hold that these powers, in order to be available, must be exercised in good faith, and in accordance with the Constitution and laws of the country. When voters undertake to become revolutionary, by casting their votes for a candidate *well known to them to be ineligible*, it is such *willful misconduct* as should forfeit their right in the premises; they should not be allowed to profit by their own wrong to the injury of an honest, law-abiding minority.

Was Mr. Simpson, who claims to have received a majority of the votes in this district, ineligible at the time he was voted for; and did those who cast their votes for him know the fact? The third section of the fourteenth amendment to the Constitution of the United States provides that "no person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof." Mr.

Simpson admits, in his answer to the notice of contestant, that he "was a member of the general assembly of South Carolina in the years 1858, 1859, and 1860; that he took the oath as such to support the Constitution of the United States; that he voted for the call of the convention which passed the ordinance of secession; that he entered the confederate army and served as major and lieutenant colonel until the close of the year 1863, when he was elected to the confederate congress, and that he continued a member of said congress until the close of the war; that he has engaged in open war against the United States, and as a member of the confederate congress he did all he could in an honorable way to advance the cause in which he was engaged."

The electors in this district were therefore thoroughly informed of the ineligibility of Mr. Simpson at the time they voted for him. It is perfectly clear that they had actual notice of his ineligibility. But even without the *actual* notice to individual voters, they are equally bound, under a state of facts such as here presented. They are presumed to have known of the disqualifying article of the Constitution of the United States. They are presumed to have known that he had been a member of the general assembly of South Carolina. They are presumed to have known that he took an oath to support the Constitution of the United States as said member. They are presumed to have known that he was member of the confederate congress. These are presumptions of law and charge these electors with constructive notice.

When the ineligibility of a candidate arises from his holding or having held a public office, the people within the jurisdiction of such office are held in law to know, and are chargeable with notice of, such ineligibility. (*Vide Grant on Corporations*, page 109.)

In this instance there was actual as well as constructive notice of the disqualification of Mr. Simpson. All the witnesses that have been examined state that it was well known throughout the district, and the prominence of Mr. Simpson renders it very certain that this was the case. This case is distinguishable from the case of *Smith vs. John Young Brown*, in the fortieth Congress, from the fact that in that case the disqualification was doubtful, and there was no evidence that the electors knew of the disqualification. He had not served in the confederate army; he had held no office under the constitution of the confederacy that could charge those who voted for him with constructive notice; neither were the acts of disloyalty alleged against him of a character so notorious as to raise a presumption of knowledge upon the part of the electors of the district.

It is conceded that in cases heretofore decided by the House the doctrine here maintained has not prevailed; but it is confidently believed that in none of them was the notoriety of ineligibility raised, considered, or decided. All the cases heretofore considered lacked this important element or ingredient. This is the first occasion on which that fact is made a part of the case.

When we are asked for a precedent we reply: 1. The contrary is nowhere decided; no man was ever refused a seat under similar circumstances. 2. If we have no precedent for the view we take, we reply it grows out of the rebellion, and we have no precedent for that. The rule for which we contend is the rule of common sense and common justice, and we should not hesitate a single moment to establish a precedent which would inform those lately in rebellion that it is high time their rebellious conduct should cease.

The contestant seems to rely, however, with more confidence upon the proposition that in six counties of this district, viz., York, Spartanburg, Union, Laurens, Pickens, and Oconee, a sufficient number of republican

voters, who would have voted for him, were kept from the polls by violence and intimidation, as would, if allowed to vote, have given him a majority in the district, and that the elections held in said counties should be disregarded in ascertaining the result.

It seems, from the evidence, that there was a secret political organization in this district, the object of which was to prevent a fair election and stifle the voice of the people.

Thomas Hill testifies that he belonged to one of the lodges of this *patriotic* institution, and that W. D. Simpson, the democratic candidate, was also a member; that one of the objects of this organization was to procure and furnish arms to all white democrats, so as to enable them to take possession of the polls on the day of election and prevent republicans from voting; and that this plan was fully carried out. (*Vide* page 4, book 2.)

It seems that Mr. Simpson and his chivalric coadjutors of this organization confined their warlike demonstrations to that portion of the district in which there was but a sparse white population, and where they could gorge their hungry and thirsty appetites for blood upon the unarmed, defenseless blacks.

R. K. Scott, governor of the State, testifies, (page 45, book 2,) that—

In the aforesaid six counties there was a thorough organization to prevent republicans from voting. A large number of most approved weapons, Winchester repeating rifles, had been shipped into the State during the fall of 1868, and distributed through these counties, and placed in the hands of ex-confederate soldiers, for the purpose of controlling the elections and overthrowing the State government, in case Seymour and Blair were elected. This was the subject of their daily conversations, and was openly declared by their public speakers. That with the exception of the counties of Fairfield, Chester, and Greenville, the election was a mere farce; the frauds, intimidations, violence, and murders were so well known by all men who knew anything about those counties, that no one would so far stultify himself as to say there was anything like a fair election. During the canvass official reports were constantly coming to me of the most brutal outrages being perpetrated upon colored republicans. Mr. Randolph, chairman of the republican State committee, was killed in that district. I called upon General Meade, commanding the military district, to establish posts in this district; but the troops he furnished were so few in number, and their orders were such, that they could afford but little protection.

J. L. Neagle, comptroller general of the State, testifies:

I have a very intimate knowledge of the condition of political affairs in the fourth congressional district during the canvass of 1868. The Ku-Klux carried on the most brutal acts of violence that have ever been witnessed among civilized people. I was a candidate for representative for York County. I did not remain in the county, or visit it during the canvass, by reason of the advice of my friends, who believed I would be assassinated if found in the county. None of the State canvassers ventured into the fourth district after the murder of Mr. Randolph. The republican party in this State is mostly composed of colored people and humble whites, who were considered the poor class prior to the war; and as the colored people had been slaves, and the poor whites had been mere tools for the slave-owners and accustomed to fear them, these acts of violence on the part of the old slave-holders created a perfect panic, a reign of terror in the ranks of the republicans. Many of them told me they would rather be dead than attempt to vote. If a fair election had been held, Mr. Wallace's majority would not have been less than two or three thousand.

John B. Hubbard, chief constable of the State of South Carolina, (page 43, book 2,) states:

I was through the fourth congressional district before the election. Violence was used against republicans. Men were taken out by the Ku-Klux and whipped, to frighten them from voting the republican ticket. My subordinates reported numerous outrages and murders. In the town of Laurens a man was publicly shot down in the streets for saying he was a republican. Shots were fired at republicans, and a general system of intimidation and terrorism reigned supreme. I advised the members of the legislature from York and Laurens not to go home during recess in 1868. The organization of the Ku-Klux in the third and fourth districts of the State was perfect. Sev-

eral thousand Winchester rifles were shipped into the fourth district by the democrats. In most of the counties of this district men were driven from their homes; whole families were turned into the highways, and their furniture broken up.

The board of State canvassers accompanied the certificate of election to Mr. Wallace by a statement of facts, from which we extract the following:

The board of State canvassers find, upon the evidence presented to them, that the election at which the said Simpson appears to be elected, was accompanied by such grave and widespread disorder and outrage on the part of his political friends, as in their judgment makes the apparent result different from the result which a free and orderly election would have secured. It is known to the board of State canvassers that the party to whom the said Simpson belongs, by the newspapers in their interest and by the voice of their public speakers, did inaugurate and keep up a wholesale system of proscription, terrorism, and assassination prior to the election on the 3d of November, 1868, which prevented any considerable canvass of the fourth district, and overawed vast numbers of republican voters, and prevented anything like a free expression of political opinion throughout the district. In their official capacity as canvassers, in their private capacities as citizens and voters, as friends of order and public morality and decency, they solemnly avow their belief that the election of William D. Simpson was a monstrous outrage, a ghastly triumph, whose price was treachery, violence, assassination, and murder.

The evidence given of particular acts in the six turbulent counties would seem to fully justify the conclusions of the State officials.

UNION COUNTY.

Jesse J. Mobry, being sworn, states, (page 32, book 2:)

I reside at Gowdeysville post office, Union County; I was one of the managers of election at that precinct on November 3, 1868. The members of the democratic party threatened to kill every man who voted the republican ticket. Many outrages were perpetrated on republicans at night by men disguised, who were riding over the country. I know of five republicans who were murdered by them—three shot and two hanged. A sixth had his throat cut so that he died. Another was tied hand and foot and thrown into the river, but succeeded in getting his hands loose and escaped. Several were taken from their houses and beaten. Armed men were about the polls all day, threatening republican voters. Many republicans came to the polls but did not vote. The vote at this precinct was more than two hundred less than the registered vote. If a fair election had been held the county would have gone republican, *as they had carried the county at a previous election by nine hundred majority.*

Moses Hawkins states, (page 30, book 2:)

I reside in Union County and have resided there for sixty years. All republicans were threatened at the election in 1868. Just before the election I was shot at by a mob of democrats at Sautuck Depot, without any provocation. They mobbed us and I started to leave when they shot me—the ball breaking my thigh. Thirteen other republicans were wounded at the same time. The Ku-Klux were riding all over the county frightening everybody.

J. A. Walker states, (page 30, book 2:)

I was born and raised in Union County, South Carolina; am a magistrate. I went to my precinct (Sautuck) to vote at the election in November, 1868, but the democrats would not let me vote. They drew knives and pistols and clubs, and said if any man voted the republican ticket they would kill him. Many men had to leave the polls to save their lives. The democrats came to the polls with Winchester rifles on their shoulders. The Ku-Klux went over the county previous to the election, threatening to kill all who voted the republican ticket. A large number of Winchester rifles were brought into the county and distributed before the election.

Isaac Pool states, (page 31:)

I live in Union County. Hundreds of republicans were kept from the polls by the threats of the Ku-Klux, and many were forced to vote the democratic ticket. I voted at the Gowdeysville precinct. The democrats drew knives and pistols, and swore they would kill the first colored man that voted. I saw many men who had been beaten and abused by the Ku-Klux, who were going around before the election.

J. P. Porter states, (page 34:)

I reside in Union County; was appointed manager of the Going precinct on the day previous to the election in November, 1868. I went to the court-house for the repub-

lican tickets. I started home. When I got four miles eight democrats overtook me, cursing me for a radical. They jerked me off my horse; kicked and beat me till I was covered with blood. I then mounted and started for home. Some of them followed me and made another attack, pulling me off my horse, kicking and beating me until I was unconscious. My only offense was that I was a republican.

Richard Kinyon states, (page 23, book 1:)

That he was going from Union Court-House to Draytonville, with tickets for his party, when he was met by Samuel Jeffries, who drew out a bowie-knife and made him give up the tickets; made him turn back home and told him if he stopped in the neighborhood he would have him killed before morning—that he had a crowd of “hell’s terriers” who would find him anywhere and kill him. That Jeffries told him he had two hundred colored men on his plantation, and that he would kill any one of them that did not vote the democratic ticket. That many different plans were adopted to prevent colored men from voting. Many were told that their names were not to be found, although they had been registered and voted at a previous election. Many went to the polls and were told to come back again, and when the polls closed as many as three hundred men were standing around the polls waiting to vote.

C. C. Baker states, (page 28, book 2:)

I reside in Union County; I was threatened if I voted the republican ticket I should leave the county; I could not live there; I voted the democratic ticket against my own convictions, because I did not regard it as safe to vote the republican ticket. The intimidation amounted to terrorism throughout the county; a great many Winchester carbines were brought into the county; two negroes were hung upon one tree before the election; one of them had been a Union soldier. The negroes working for me, eight in number, were afraid to vote; a very large number of republicans in the county were kept from voting. The election was no fair expression of the people. I served through the war in the Union Army, and was a brevet major general when mustered out.

John Bates states, (page 28, book 2:)

I reside in Union County, and have resided there for forty years. I was shot and forced to leave the county for protection. I went to Sautuck precinct to vote, but they would not allow me to approach the polls, and swore they would shoot me down if I did. I then went with a great many others to Union precinct; they refused our votes there; they said there were too many radical tickets voted already. Several hundred colored voters were prevented from voting at Union precinct when the polls closed. Armed men guarded the fords and roads to prevent tickets from being taken to many of the precincts in Union, threatening to kill any one who carried tickets. The republicans at all previous elections since reconstruction had carried Union County by a large majority.

Alfred Wright states, (page 34, book 2:)

I reside in Union County. A crowd of men in disguise came to my house on Saturday night before the election and fired several guns over the house and hallooed, “Hide out, radicals.” The same party rode around the county, going to every house where a republican lived making threats. They caught several republicans and whipped them, and cut one man severely. One man disappeared about the time and has not been heard from since. His family say that six strange men came to the house and tied and carried him away; it was generally believed he was killed. I heard Dr. R.M. Smith make a speech before the election, in which he said that if the colored men voted the radical ticket their bones would soon whiten the hill-sides from the sea-shore to the mountain-tops.

Many other witnesses testify to deeds of violence in this county upon the part of the democrats, and to the general terror that prevailed, preventing a large portion of the republicans from voting at all, and in a great many instances compelling them to vote the democratic ticket.

SPARTANBURG COUNTY.

B. F. Bates, being sworn, states, (page 22, book 2:)

I am fifty-two years of age; was born and raised in Spartanburg County; am a farmer and merchant. The feeling of the democracy was most intense and bitter. My hands, some thirty in number generally voted the republican ticket at the spring election. They put me down as a radical and threatened to kill me and destroy my property, and as the time for the election approached, the terrorism became so great

that, for my personal safety and the safety of my property, I went to my hands, and by explaining to them the danger it would place both them and me in if they voted, I prevailed upon them not to vote if they were not willing to vote the democratic ticket, but to stay away from the polls, which they did, all but one; I myself voted the democratic ticket because I believed my safety required it. The intimidations were general all over the county. I am well acquainted with the county, having represented it in the legislature before the war. Many republicans were kept away from the polls, and many were forced to vote the democratic ticket. The Ku-Klux traveled all over the county for many nights before the election. Two colored men mysteriously disappeared from my neighborhood a short time before the election, and have never returned.

W. Magel Fleming states, (page 58, book 1:)

I was in Spartanburg during the fall of 1868; threats of personal violence were indulged in by democrats toward all who voted the republican ticket, and in many instances these threats were executed. The number of registered votes in Spartanburg County is four thousand five hundred; the number of votes cast at the election on the 3d of November, 1868, was two thousand and sixty. A very large number of republicans were kept from the polls by threats and many were forced to vote the democratic ticket.

Dr. John N. Lindsey states, (page 25, book 2:)

I was clerk at the Cashville precinct; I voted the democratic ticket; I saw tickets taken from republicans and torn up; the feeling toward republicans was very bitter and hostile; I know, as a member of the democratic party, that the policy in that election was to intimidate republicans and keep them from voting. If I had been a colored man I would not have gone to the polls.

James Perry states, (page 24, book 2:)

I did not consider it safe to go to the polls, and so advised the men working on my place; to my personal knowledge a great many republicans in Spartanburg County were kept from the polls by threats and intimidations. Many complaints were made to me of outrages committed by the Ku-Klux.

G. L. Pearson states, (page 23, book 2:)

I went to the Cashville precinct to vote, but from the threats made there I did not vote, because it was not safe to vote the republican ticket. I know myself of ten white men and thirty colored men who did not vote at that precinct on account of threats; the democrats carried the precinct by a large majority; the republicans have a majority at a fair election.

Coy Wingo, colored, states, (page 21, book 2:)

I was at the polls, Wilkins precinct, Spartanburg County. The democrats took down the names of all colored voters, and frightened a great many off from voting. I was driven off from the polls, followed by six men; they stoned me and tried to shoot me; they said as long as I staid there none of the colored men would vote the democratic ticket.

William Walker, (book 2, page 19:)

I was intrusted with the distribution of the republican tickets for Spartanburg. I could not go to all the precincts myself, and employed others; some turned back by reason of threats against their lives, while at many precincts they were not allowed to be voted. The election was carried by intimidation in the county. The republican party carried the county for delegates to the constitutional convention by a handsome majority.

A number of other witnesses testify to the general terror that prevailed through this county by reason of the violence and outrages perpetrated on republicans.

YORK COUNTY.

Mr. John L. Watson, being sworn, (page 40, book 2,) states:

That he was one of the registers for York County; that the number of registered voters in the county was 4,790; the number of votes cast at the election on 3d of November, 1868, was 3,585, a difference of 1,205, and he is satisfied that the silent vote was republican voters, kept from the polls by intimidation. Active efforts were made

by democrats to intimidate freedmen and prevent them from voting, and every effort was made to frighten them and keep them from going to the election. That in some instances doors were broken down and shots fired through houses, endangering the lives of the occupants; that in his own neighborhood, on three farms, more than fifty voters were prevented by various threats and intimidations from going out to vote, and, to his personal knowledge, these men would have voted the republican ticket; that a few nights before the election, armed bands of men known as Ku-Klux patrolled the whole county, visiting all farms where colored laborers were employed, threatening and terrifying them, so as to keep them from the election; that at Rock Hill precinct he was one of the managers of election, and had a good opportunity to see how the election was conducted; that several men were very active in their efforts to overawe and intimidate republican voters, and that they actually did prevent a number of men from voting who were at the polls; he believes as many as fifty were driven away from the polls; that at that precinct one hundred and ninety-three men who were registered did not vote, and he is satisfied they were republicans, who were prevented from voting by intimidation; that he does not know of a democratic vote that was not cast.

J. H. White states, (page 51, book 1:)

I am a member of the legislature, and live at Yorkville, York County. Many threats were made against republicans at and before the election in November, 1868. Bands of disguised men rode over the county in all sections, visiting the houses of republicans, shooting into houses, breaking down doors, and threatening that if they went to the polls the next day they should be murdered. The day after the election, a man living near Hickory Grove went with me to a magistrate and made complaint that a party of men in disguise came to his house on the night before the election and told him if he attempted to go to the election they would kill him. He did go to the election, and took his wife with him, and on his return, found that his house, and all he had in the world, was burned up.

G. Fennec states, (page 39, book 2:)

I live in Ebenezer, York County. There was a Ku-Klux order in that county in the campaign of 1868. They came to Captain Ferris's farm, where I lived, and attacked me in the house. They broke in, and tried to come in. They shot into my house sixteen or seventeen times. They fired into Captain Ferris's room, and would have killed him if he had been in bed. They said they would kill all republicans. They traveled all over the county disguised, and spread terror everywhere. Many republicans staid away from the polls at the precinct where I voted. Many came to the polls, and were turned away without voting—I should say as many as two hundred.

John Martin states, (page 41, book 2:)

I am a magistrate, and was one of the commissioners of election for York County. The condition of things was very outrageous and threatening in the county. I voted at Hickory Grove precinct. The election was conducted by disorderly and riotous men. They threatened myself and all republicans, crying, "Cut their damned throats." They prevented a large number of republicans from voting. General terror prevailed at the polls at that precinct. The republicans have a large majority, nearly two to one, but at this election the democrats carried it by a large majority.

Maloy Jones and Nelson Haywood state, (page 43:)

Bands of men in disguise rode over the county, threatening men if they went to the polls they would be killed, and leaving coffins at republican houses, marked K. K. K.

LAURENS COUNTY.

Thomas Hill sworn, states, (book 2, page 4:)

I was town marshal of Laurens at the time of the presidential election, in November, 1868. The democrats were very violent and excited. They sent out armed patrols every night, who threatened to exterminate republicans. They broke up the Union League. The republicans were afraid to show themselves. It was not safe for a man to say he was a republican; he was liable to be shot down for saying so. One man by the name of Tabby was shot down in the town of Laurens for saying he was a republican. The murderer was not arrested. The next day his two brothers came to town with guns, hunting two colored men to kill them. I gave the men notice, and they got out of the way. I was compelled to join a democratic club to save my life, at Laurens. The club I joined passed resolutions to prevent republicans from voting at the election in November, 1868. They passed resolutions to furnish every white democrat with arms, so as to take possession of the polls and prevent republicans from voting, and

on election day they were all armed. I saw them attack Mr. Freeman, agent of the Freedmen's Bureau, and at the risk of my life I kept them from killing him. They refused to let him vote because they said he was a damned republican. I saw them attack Adam, a colored republican, and drive him out of town. Some sixty of them fired revolvers at him. They blocked up the polls, and would only allow a republican to vote now and then. Their conduct created a general terror among the colored voters, and kept them from voting. Mr. W. D. Simpson, the democratic candidate for Congress, was a member of the democratic organization I have mentioned.

James Chews states, (page 4, book 2:)

I reside in Laurens County. I was at the polls on election day a short time; I was afraid to stay longer on account of threats made by democrats to kill me. A large number of colored voters came to me; they were told by the managers that they could not vote unless they voted the democratic ticket. A great many told me they were afraid to vote, and went off without voting; some told me they had been beaten and abused by the Ku-Klux the night before. I did not consider this a fair election, as a great many republicans had been kept from the polls by intimidation, and because we had carried Laurens County ever since reconstruction by handsome majorities.

Sandy Williams states, (page 4, book 2:)

A colored man by the name of Wise was shot down at Laurens a few days before the election; he received five shots and died shortly after. A number of republicans were whipped, and upon all hands they feared for their lives. The democrats formed a line to keep colored men from voting; I know at least fifty that did not vote on that account. The Ku-Klux overran the county, carrying terror everywhere. A man named Epps was attacked a few days before the election, wounded, and driven off; Giles Todd, who was with him, also badly wounded. On the night before the election they fired cannon all night and sent abroad reports that the democrats and republicans were fighting to frighten republicans from the polls.

Watt McCoy states:

I reside in Laurens County. I was at the election in November, 1868. I saw hundreds of colored voters driven away from the polls by violence. Previous to the election they came to my house, tore out my windows, and told my wife (I was not at home) that if I voted the republican ticket they would kill me. On the morning of the election the roads were guarded to prevent republicans from coming to the polls.

Elias Thompson states, (book 2, page 7:)

I reside in Laurens County. I voted for Simpson. There were in my neighborhood about 280 voters, colored, and 30 only of them voted. No republican's life was safe at that time. The republicans have always carried Laurens at a fair election.

Wade Perrin states:

I voted at Laurens Court House in November, 1868. Democrats came to the election with guns strapped on their backs, and many stood at the polls with clubs. The colored men were driven back and not allowed to vote unless they voted the democratic ticket.

Spencer Sullivan, Cæsar Culbertson, and N. Freeman state, (pages 7, 8, 9, book 2:)

That their houses were broken open and themselves abused and threatened with death if they voted the republican ticket.

OCONEE COUNTY.

Alexander Bryce, being sworn, states, (book 1, page 36:)

I am a merchant; reside in Wohola, Oconee County; I am well acquainted with the county; was deputy sheriff four years; I was one of the State constables during the election, November 3, 1868; many threats and disturbances occurred in the county, and several deeds of violence before the election; complaint was made to me that the democrats in several instances had threatened and shot at republicans; several republicans stated they had been lying out from home for fear of the Ku-Klux; republicans were threatened and shot at while attending political meetings; colored men were whipped, abused, and turned away from their houses during the campaign. When I was going to the polls I met sixteen colored voters leaving the polls. They said they had been told at the polls that they would not be allowed to live in the county if they voted the republican ticket, and they were afraid to go back to vote. One of them went back with me. I took him up to the polls. A democrat stepped up and took the

ticket out of his hand. I said he had a right to vote. The man who took the ticket, and two others, said to me, "You damned radical, if you say a word we will shoot your heart out." Armed bodies of men were patrolling the county before the election, denouncing and threatening republicans. Reports came to me frequently, as an officer, of outrages in the county.

J. F. Cox states, (page 11:)

I reside at Keonee precinct, Oconee County. I wanted to vote the republican ticket, but was afraid to. I know a large number of republicans who did not vote for the same reason, and a large number of colored voters who were forced to vote the democratic ticket. Not one republican vote was polled in that precinct.

William Kilpatrick states, (page 10:)

The lives of all active republicans were in great danger in Oconee County. I went to vote at my precinct. They tore up my ticket and offered me a democratic ticket, and I did not get to vote.

J. B. Sanders states, (page 12:)

I reside in Oconee County. I voted the democratic ticket at the election in November, 1868. I was compelled to do so by the circumstances surrounding me. There was a large colored vote in my precinct (Centre), but none were cast. Many staid at home on account of threats and intimidations.

David Sanders states, (page 12:)

I am county treasurer of Oconee. A very large number of republicans did not vote on account of intimidations. The lives of republicans were in danger.

PICKENS COUNTY.

Jeremiah Lupee, being sworn, states (page 17, book 2:)

There was general intimidation produced by the threats and acts of the democrats; that some thirty or forty came to his house; that he tried to get them to go to the election, but they were afraid of losing their lives. I went to the polls and voted, but was grossly insulted. That the intimidation produced by the Ku-Klux was so general that the larger portion of the republicans in the county did not go to the polls. They proclaimed that republicans would have to leave the county after the election; and to enforce this threat the managers of election kept separate lists of republicans and democrats.

Orland C. Folger states, (page 15:)

I was chairman of the republican committee of Pickens County. There was not more than one-half of the registered vote polled in Pickens. This was owing to a large number of the republicans not voting, from fear of personal danger. There was a general system practiced in the county to prevent republicans from voting. The democrats were organized into clubs all over the county, the object of which was to prevent republicans from voting. At Pickensville precinct threats were made that they would drive away all radicals from the polls. Consequently the democrats carried that precinct by a majority of sixty-five at the election in November, 1868; while at the election in the preceding June, the republicans carried it by one hundred and twenty-seven.

Dr. A. M. Folger states, (page 13:)

I reside in Pickens County. A majority of the republicans were deterred from voting at the election of November, 1868, by threats of personal violence. At the election for county officers, held in June preceding, the republicans carried the county, electing the sheriff.

Perrin O. Dell states, (page 15:)

I was a manager of election at Pickensville precinct at the election on November 3, 1868. There was some disturbance at the election, and apprehension all day. Armed bands rode all over the county before the election, and left coffins at colored men's houses, and created general terror throughout the county. Large numbers, both white and black, were prevented from voting, as they expected and dreaded personal violence at the polls.

W. A. Lesley states, (page 17:)

I am a merchant, and reside at Pickens Court House. It was understood before the election that there would be a party of men at the polls to keep republicans from voting, and to mark all who voted that ticket. I had been register of Pickensville precinct, and not one-half the registered colored vote was polled. There were armed men at the polls making threats against republicans.

Other witnesses testify to these and similar facts, showing violence and outrages in these counties. There is evidence also showing many irregularities in the reception of votes and organizing election boards. But your committee is satisfied that the elections held in these six counties were mere farces, and are entitled to no consideration as the expressed will of the people; that under no precedent or any principle of law or justice could these elections be considered valid. In the case of *Harrison vs. Davis*, (Contested Election Cases, vol. 2) which is probably the leading case upon the question, it is ruled "that if so many individuals were excluded by violence and intimidations as would, if allowed to vote, have given the contestant the majority, this would have been in law decisive of the case." This doctrine is conceded in the minority report in the recent case of *Hunt vs. Sheldon*. But if we had no precedent, the committee would not hesitate to decide that where there was such violence and bloodshed as would intimidate men of ordinary firmness, and where a sufficient number of voters to have changed the result were kept from the polls by reason of this intimidation, it would be as fatal to the poll as if the election board had been controlled by intimidations. In the recent cases acted on by the House from Louisiana, it was contended that there was no violence used at the polls, and therefore there was no actual obstruction to a fair election. In this instance, according to the evidence, there was a conspiracy to prevent a free election. Mr. Simpson and his friends had organized secret political clubs in all of those counties, with the avowed design of preventing republicans from voting. They had procured an abundant supply of fire-arms and were ready to make any use of them that the success of their purpose required. Their murders and threats before the election had so far done their work that their appearance at the polls, fully armed and equipped, was sufficient to intimidate republican voters, both white and black, who had so recently witnessed the outrages practiced by these desperate men. At most of the polls there was violence used just in proportion to the firmness and determination manifested by the republican voters. In counties where there were but few white republicans the Ku Klux, by traversing the counties for several nights before the election, beating the freedmen, shooting into their houses, and leaving coffins at their doors, so completely terrified them that it required but little effort on the day of election to drive them from the polls.

Did this violence and intimidation deter a sufficient number of voters from voting, who, if they had voted, would have elected the contestant? We are clearly of opinion that it did. We think, too, that by the evidence it is fully established that a fair election in these six counties would have largely increased the majority for Mr. Wallace in the district.

The result in the district was as follows :

Counties.	Wallace.	Simpson.	Total.
Chester.....	1, 662	1, 405	3, 067
Fairfield.....	1, 994	1, 182	3, 176
Greenville.....	1, 531	1, 578	3, 109
	5, 187	4, 165	9, 352
Laurens.....	1, 181	1, 895	3, 076
Ocoonee.....	291	1, 064	1, 355
Pickens.....	369	1, 105	1, 474
Spartanburg.....	376	2, 074	2, 450
Union.....	866	1, 756	2, 622
York.....	1, 537	2, 039	3, 576
Total.....	9, 807	14, 098	23, 905

	Registered vote.	Vote cast.	Not voting.
Chester, certificate.....	4,150	3,067	1,083
Fairfield, certificate.....	3,643	3,176	467
Greenville, book 1, page 56.....	3,900	3,109	791
Laurens, certificate.....	4,788	3,076	1,712
Oconee, certificate.....	2,023	1,355	668
Pickens, certificate.....	1,800	1,474	326
Spartanburg, book 1, page 58-59.....	4,500	2,450	2,050
Union, certificate.....	3,553	2,622	931
York, book 1, page 17 ; book 2, page 40	4,790	3,576	1,214
Total.....	<u>33,147</u>	<u>23,905</u>	<u>9,242</u>

The foregoing tables show that the vote at this election was 9,242 less than the registered vote of the district, and that Mr. Simpson received 2,475 less than one-half of the registered vote.

At an election held in this district for representative in the fortieth Congress in April, 1868, only a few months prior to the one now under consideration, the republican candidate received a majority of 3,023.

The county of York gave a republican majority, in April, 1869, ranging from three to four hundred. (Page 40, 2d book.)

At an election at the same time in Laurens, for school commissioner, the republican candidate had a majority of about two hundred, and these are the only counties in which elections have been held since 1868.

It is sometimes urged that in cases where a fair election has been prevented by fraud and violence only in a part of a district the whole election should be set aside, and a new one ordered. When a portion of the people of any district, in a peaceable and orderly manner, and in strict compliance with all the forms of law, manifest their will at the ballot-box, we can see no good reason why that will should be disregarded on the ground that there were other people in the district who did not choose to obey the law, nor submit to its requirements. It will be conceded that if thirty thousand of the voters of this district had decided to stay at home on the election day, and the other three thousand had gone to the polls and voted, their choice would have been the legal choice of the whole district. And it would have made no difference whether the entire three thousand persons who voted lived in one county or in two counties, or in the whole nine counties of the district. We can see no difference between such a case and the one now being considered.

It must not be forgotten that those who insist upon setting aside the entire election are pleading in the interest of traitors and for the cause of treason. Simpson was the exponent of rebellion—the faithful, tried, and trusted representative of treason in the army and in the councils of the confederacy.

Wallace was one of the few followers of the Union cause in the State of South Carolina. Born and raised in their midst and commanding their respect and esteem as a man, during all the dark days of the rebellion he remained faithful, and is to-day one of the very few natives of South Carolina who can take the test oath.

It may not be important to determine when a rebel becomes loyal, nor the exact moment when a rebel State becomes reconstructed. It will hardly be contended that the soldiers in Lee's army were entitled to vote for United States officers before Lee's surrender, or that officers of the confederate government could do so before the capture of Jefferson Davis. The exact length of time required for either of these classes to cool off and re-assume the garb of loyalty to the government has not

been definitely settled. Many of the friends of the government believe that at least some little time should be allowed, and some evidence of a change of conduct, if not of heart, should be required. It is confidently insisted that the democratic leaders in these six counties of the fourth congressional district of South Carolina did not, on the day of the election in 1868, exhibit by their conduct any very satisfactory evidence of a change of purpose and design, or show very many "works meet for repentance."

The same system prevailed in each one of these six counties. Clubs were formed; resolutions passed; laborers discharged for voting their sentiments; men denounced; custom taken from them; their property burned; houses fired into; some stripped and flogged; others crippled, scourged, waylaid, and robbed; pictures of Union men taken and sent around to democratic roughs, so that they might know whom to murder; cannon fired all of the night before the election, so as to frighten the negroes and keep them from the polls; the whole district filled with Winchester rifles, (fourteen shooters;) many Union men, both white and black, hung up to the trees, and shot down in the woods and in the streets, and many others compelled to vote the democratic ticket against their will, in order to save their lives. If these practices are evidences of a fair and impartial election, and if they were learned by the people of South Carolina during the short reign of Jefferson the First, it is surely not much to be regretted that his reign was of short duration.

There is still another view of the case presented by the contestant. He insists that without setting aside the election in any county in the district, he has shown that more men offered and attempted to vote for him who were refused and prevented than would be required to overcome the apparent majority for Simpson. As already shown, the votes returned in the entire district give Wallace 9,807, and Simpson 14,098, or 4,291 majority. In the three counties not assailed, Wallace received 5,187, and Simpson 4,165, or 1,022 majority for Wallace. It is in evidence that at every other election since the close of the rebellion this district gave a republican majority. In April, 1868, the majority for Colonel Goss, republican, was 3,023. It appears from the evidence that in the six counties of this district now assailed, there were kept from the polls or driven away by violence and intimidation, a very large number of persons who either offered or intended and attempted to vote for Mr. Wallace. The exact number cannot be ascertained, but is very nearly approximated in the following table, to wit:

Laurens County	1, 500
Oconee County.....	550
Pickens.....	250
Spartanburg.....	1, 800
Union.....	700
York.....	1, 000
Total.....	<u>5, 700</u>

Had these persons been permitted to vote, Colonel Wallace would have received a clear majority of 1,409, even allowing all the votes returned for Mr. Simpson as having been fairly cast for him. Such, however is not the fact.

The county of Spartanburg returned for Simpson 2,074 votes, and for Wallace 376, being a majority of 1,698 for the former. The evidence

on pages 58 and 59, (book 1,) shows that all the forms of law were entirely disregarded in this county, and that for this reason alone, if there were no other, the returns from this county could not be received.

W. Magell Fleming, being duly sworn, says :

Question. What is your name, residence, and occupation.—Answer. W. M. Fleming ; Spartanburg Court-House ; attorney at law.

Q. How long have you resided in Spartanburg County ?—A. Since 1862, and previous to that in Charleston.

Q. Were you in Spartanburg during the months of October and November, 1868 ?—A. Yes, except a few days, about the time of the election, when I was at Cokesburg, in Abbeville.

Q. Was there any political excitement in Spartanburg during the canvass ?—A. There was considerable excitement.

Q. Were any improper measures resorted to to influence voters ; and, if so, by whom ?—A. Threats of various kinds were made by the members of the democratic party. Resolutions were passed by the democratic clubs that no party voting the republican ticket should be employed in any way by the democracy. The persons and property of republicans were threatened.

Q. Did you hear any threats made against prominent republicans ?—A. I heard threats made against all republicans who in any way supported the nominees of the republican ticket. Threats of personal violence were freely indulged in, and in several instances those threats were actually executed.

Q. Did you occupy any official position in the county ; and, if so, what ?—A. I was commissioner of election for Spartanburg County, and chairman of the republican committee in that county.

Q. Were the managers of election in your county properly appointed and qualified according to law ?—A. They were not. The commissioners did not receive their authority from the secretary of state until the day after the election was held ; the postmaster having detained the letter containing their appointment from the 12th of October until the 2d of November, upon which last day he sent it to deponent's residence. In addition to this, the managers were appointed prior to the legal organization of the board, and after I met the board they allowed me to appoint one manager, they appointing eighty-nine managers, all democrats ; and after the election was held, the report of said election was illegally made, and was, in point of fact as well as point of law, incorrect ; for, whereas the election law requires that the commissioners of election organize themselves into a board of county canvassers by the chairman of said commissioners, administering to each one of the commissioners the constitutional oath as canvassers, no such oath was administered to each or any member of the said board of commissioners, and their pretended report was not sworn to, and was not only informal because of it not being sworn to, but also incorrect in that a number of votes polled for W. D. Smith were added to the vote of W. D. Simpson, while a number of votes reported by the acting managers having been polled for James H. Goss, were not mentioned in the said pretended report, nor were a number of votes cast for A. S. Wallace for elector noticed at all.

Deponent further submits that 1,460 of the votes credited to W. D. Simpson were incorrectly added to his pretended majority, inasmuch as the said 1,460 votes majority were reported by the commissioners of election, who were not sworn to the report ; whereas the law requires said report to be made by the county canvassers, they being first sworn.

Q. What is the entire number of registered voters in Spartanburg County ?—A. About 4,500.

Q. What was the number of votes cast at the election of the 3d of November, 1868 ?—A. About 2,060, according to the report of the commissioners.

Q. What is the difference between the registered vote and the vote cast as reported ?—A. About 2,440.

Q. Was any improper conduct on the part of managers reported to you after the election as commissioner ?—A. The managers of the election at Spartanburg precinct were reported to me for allowing the democratic committee to come behind the voting box with them, in order to examine the votes, contrary to law, which requires said votes to be polled folded ; said democratic committee being there for the alleged purpose of examining the vote, thereby discovering who voted the republican ticket, and thus enabling themselves to execute their threat relative to said republican voters. I was informed by T. Stobo Farron, esq., a prominent democrat of Spartanburg, that there was a similar committee at each voting precinct in Spartanburg County ; said committees being sent by the local democratic clubs for the express purpose of showing the legislature the folly of their attempting to pass any act capable of shielding the republicans from the results of voting the republican ticket.

(Objected to as slanderous and hearsay.)

Q. Did you attend any republican meetings in Spartanburg County?—A. I did, and addressed several such meetings.

Q. Were any attempts made to disturb these meetings; and, if so, by whom?—A. We were universally interrupted, in some instances threatened, and at last twice compelled to discontinue the meeting. The disturbances were raised by parties claiming to be democrats; these men were mostly armed with pistols.

Q. Do you believe that any legally-registered republican voters were prevented from coming to the polls by threats and intimidations?—A. It is my opinion that a large number of republicans were prevented, by threats and intimidations, from voting, while others were induced by said causes to vote for the democratic candidates.

Q. What opinions did you hear expressed by the democrats in regard to the reconstruction laws and the State government organized under them?—A. They held that the reconstruction acts were illegal, unconstitutional, and void, and that the State government organized thereby was a usurpation of the rights of citizens of this State, and ought to be resisted by every means which God and nature had put in their power.

W. MAGILL FLEMING.

The evidence is also clear that in Oconee County from one hundred and fifty to two hundred fraudulent votes were given for Mr. Simpson, and it is equally well established that in every county many republicans were compelled to vote the democratic ticket, and for Mr. Simpson, to save their lives. Our calculation as to those rejected votes is very much strengthened by the fact that the county of York, which gave Simpson 502 majority in the fall of 1868, gave a republican majority of nearly 400 in April, 1869, and the county of Laurens, which gave Simpson a majority of 714 in the fall of 1868, gave a republican majority of 200 in April, 1869.

Under any one of the three views here presented Colonel A. S. Wallace is entitled to the seat, and, when all these propositions are united, we consider the claim as conclusively and unanswerably established. The committee, therefore, offer the following resolution:

Resolved, That A. S. Wallace was duly elected a member of the forty-first Congress from the fourth district of South Carolina, and is entitled to the seat he claims in this House.

EXAMINATION OF STATEMENTS IN THE REPORT OF SPECIAL COMMISSIONER OF REVENUE.

MAY 19, 1870.—Laid on the table and ordered to be printed.

Mr. MORRELL, from the Committee on Manufactures, made the following

REPORT.

The Committee on Manufactures, to whom were referred a number of petitions, asking for an inquiry to be made into certain statements contained in the last report of the Special Commissioner of the Revenue, respectfully submit the following report :

These petitions are very numerous, and from all parts of the country, and are signed by many thousands of persons interested in almost every department of industry. The following may be taken as a specimen of their general tenor, to wit:

In the last report of Hon. D. A. Wells, Special Commissioner of Revenue, he alleges that protective duties are a burden upon industry, taking from the laborer a portion of his hire and giving him no return;* that they have been enacted and are sustained by the unproductives, who are the chief makers of laws and institutions for the protection of labor and ingenuity, and shape their devices so cunningly, and work them so cleverly, that they continue to grow rich faster than the producers;† that, owing in part to the tariff, the laborer is less worthy of his hire than heretofore, and has lost interest in his work;‡ that domestic competition, excited by tariff laws, causes manufacturers to adopt the usual resort of turning out articles or products of inferior quality, but with an external good appearance—slate being substituted in place of coal, cinder in place of iron, shoddy in place of wool, starch and sizing in place of cotton, pasteboard in the manufacture of boots and shoes in place of leather, and clay and plaster in paper manufacture in place of fiber;§ and the Commissioner recommends to Congress sweeping reductions or a total abolition of duty upon the staple products of American mines and manufactures—his tariff scheme proposing to raise sixty millions of revenue from tea, coffee, sugar, and molasses, which are the food of the working people, and but fifty-three millions from all metallic and textile wares and fabrics,|| thus raising the cost of the articles which our workers consume, while reducing the market value of the products of their labor.

Your memorialists respectfully express their belief that the pretended statistics of the Commissioner will be found erroneous; that his conclusions are a libel upon American manufacturers and workingmen, and that his recommendations will be a most dangerous guide to legislation. And your memorialists respectfully ask that a special and searching examination be made of the above stated and other allegations of said report, and of the data on which they are based, that the truth may be made public, and error, however strongly indorsed, may be effectually confuted. And they will ever pray, &c.

* See Report of 1869, page 33. † Page 40. ‡ Page 33. § Page 106. || Page 129.

The committee have not made a thorough examination of *all* the features of the Commissioner's report to which exception is taken by the petitioners, but have limited their inquiries to such portions thereof as assumed the existence of certain facts. They have chosen to examine into the correctness of the assumed facts and figures presented, rather than combat what to them seem false theories, since, if the facts fail, the theories erected thereon must also fail. They do not conceive the promulgation of special theories to have been any part of the duty imposed upon the Commissioner by the act of July 13, 1866, creating his office, which act declares that "it shall be the duty of the Special Commissioner of the Revenue to inquire into *all* the sources of national revenue, and the best methods of collecting the revenue; the relations of foreign trade to domestic industry; the mutual adjustment of the systems of taxation by customs and excise, *with the view of insuring the requisite revenue with the least disturbance or inconvenience to the progress of industry and the development of the resources of the country,*" &c., &c.

By the true intent and meaning of this act, the Commissioner is charged with the compilation and arrangement of such data as might aid Congress to legislate understandingly upon all questions relating to the industries and revenues of the nation. Your committee think he errs in supposing that the promulgation of any system of political economy was within the limits of his duty or his authority, since Congress may reasonably be supposed competent to draw its own conclusions.

The committee have failed, after a careful examination of the report, to find any evidence of an intention on the part of the Commissioner to perform the first portion of the duty imposed by the act above cited. Leading sources of revenue are barely alluded to, while the rule prescribed for his guidance in his inquiries into the "mutual adjustment" of customs and excise duties, namely, that the requisite revenue may be insured "with the least disturbance or inconvenience to the progress of industry and the development of the resources of the country," is palpably ignored. And they cannot help believing that, if his suggestions concerning leading industries of the country should be adopted by Congress, they would be attended by great "disturbance" and "inconvenience" to those industries, while other suggestions, if adopted, would as surely retard the "development of the resources of the country." His best energies, and the labor of his many assistants, as embodied and presented to the country in the report, have been mainly bestowed upon the condition of the currency, a subject not mentioned in the act creating his office, and upon the duty prescribed in the clause referring to "the relations of foreign trade to domestic industry," and in the performance of this duty he manifests little of the just pride an American might well feel in the efforts of his countrymen to attain industrial independence, but much solicitude to meet the views and

wishes of the trading and importing interest, especially where closely allied to European manufactures.

These remarks are not made without full knowledge of the fact that the Commissioner opens his report with a glowing description of our material condition and progress as a nation during 1869, as was proper and unavoidable; but nowhere does he mention, among the many evidences of this progress which he cites, the wonderful strides made during the past year by our people in the building up of the *manufacturing interests* of the country. He could find room to repeat the cheap boast that "peace reigns in all our borders," but not to state that new mines have been opened and new factories built. This omission would not be worthy of mention if there were not manifest throughout the entire report an apparently studied effort to ignore the large number of furnaces and mills and workshops erected and put in operation during 1869. A foreigner upon reading the report would suppose that our manufactures had stood still or retrograded during the past year, for he states no facts, he gives no statistics, to prove the contrary, although every well-informed American knows that in 1869 the progress of our manufacturing enterprises, especially in the West and South, was a source of national pride and exultation. Contrast with this flagrant omission of the Commissioner, whose duty it was to care for *every* industrial interest of the country, the following noble and statesmanlike utterance from the first annual message of the President of the United States, General Grant:

Our manufactures are increasing with wonderful rapidity under the encouragement which they now receive. With the improvements in machinery already effected, and still increasing, causing machinery to take the place of skilled labor to a large extent, our imports of many articles must fall off largely within a very few years. Fortunately, too, manufactures are not confined to a few localities, as formerly, and it is to be hoped will become more and more diffused, making the interest in them equal in all sections. They give employment and support to hundreds of thousands of people at home, and retain with us the means which otherwise would be shipped abroad. The extension of railroads in Europe and the East is bringing into competition with our agricultural products like products of other countries. Self-interest, if not self-preservation, therefore, dictates caution against disturbing any industrial interest of the country.

Referring to our progress as a nation in 1869, the Commissioner tells how the "receipts of the national exchequer have been largely in excess of national expenditures;" "the tide of labor-seeking, wealth-producing immigration continues to flow with increased volume;" the crops have been "in excess of any recent average;" "millions of acres" are now opened that "a year ago were uncultivated wilderness;" more miles of railroads have been built than in any previous year; "and from the Atlantic to the Pacific, from the St. John's to the Rio Grande, there are few who, except for physical ailment, need hunger for food or be idle for want of remunerative employment;" and he closes this pleasant and hopeful story by saying: "In short, the experience of another year reaffirms the

principle before announced, that the progress and growth of the country, through its elements of vitality, viz., great national resources and an inherent spirit of energy and enterprise in the people, is, in a great degree, *independent of legislation*, and of the impoverishment and disorder which the occurrence of a long war has necessarily occasioned." Some pages of evidence follow, "in support of these generalizations" and in proof of "the principle before announced," yet, with conspicuous lack of consistency, a large part of the remainder of the report is devoted to efforts to show that not only the distribution but the accumulation of wealth *has been largely affected by legislation*, of which, he announced in the opening, "our growth and progress" are "*in a great degree independent!*" Criticism of the *legislation* of Congress relative to duties on importations of foreign fabrics and productions forms the pith and marrow of the report. He states distinctly two hostile and irreconcilable propositions, in each of which he avows the profoundest faith, and then proceeds deliberately and with the utmost gravity to prove that his first proposition—the rose-colored one—is utterly unworthy of belief! At the very outset the Commissioner thus violently shakes the reader's confidence in his fitness for the work he has undertaken, and this impression must be confirmed by the following examination of the most conspicuous errors and misstatements which have attracted the attention of the committee.

THE FARMERS.

In his report for 1868 the Commissioner sought to prove that the condition of mechanics, laborers, and other consumers is being made worse by the high prices of food, and said that the "average increase in the price of a barrel of wheat flour throughout the manufacturing States has been, from 1860 to July 1, 1868, in excess of 90 per cent., while the increase in the wages of laborers and operatives, skilled and unskilled, during the same period, has averaged about 58 per cent. Measured, therefore, by the flour standard, the workman is not as well off as in 1860, by at least 20 per cent., or, to state the case differently, the wages which in 1860 purchased one and a half barrels of flour now pay for about one and a quarter barrels."

The increase in the price of butter, meats, potatoes, &c., was asserted to be about the same. Granting these statements to be correct, the farmer was prosperous in a corresponding degree, getting rich indeed at the cost of the poor artisan and laborer.

One short year has passed, and now the Commissioner suddenly discovers that it is the farmer who suffers "under a system of currency which unsettles values," and "under a tariff which, without offering him sufficient compensation, unnecessarily increases the cost of his tools, his fuel, his fences, and his shelter."

The same currency system and the same tariff were in operation in 1868 as in 1869, but then it suited the Commissioner to prove that the

artisan and laborer suffered, and the farmer had large prices; now, however, he finds it convenient to prove that the poor farmer is taxed for the benefit of these late sufferers and their employers.

In 1868, tariff and currency, by his argument, brought about one result; in 1869 they produce another and quite contrary result.

The farmer is told of his disadvantages in competing with Europe, as follows: "Nor does it cheer the wheat-grower to reflect that, while he suffers from a depreciated currency and competes with the stable conditions, metallic values, cheap materials, and cheaper labor of other countries, contributing at the same time his share to the public revenue, he also makes much heavier contributions on his clothing, iron, lumber, salt, coal, &c., not for revenue, but for the profit of industries more favored than his own."

The tariff is *now* considered as a tax, a small part only for revenue, but chiefly "for the profit of industries more favored" than that of the farmer.

This is the argument of 1869, but in 1867 the same Commissioner, in submitting a high tariff on steel, which "was protested against by not a few American consumers of steel," said it was necessary to the "development of a most important and desirable branch of domestic industry," and pleaded in justification that it was "represented to the Commissioner that since the introduction of the manufacture of these grades (fine steel) into the United States, or since 1859, the price of foreign steel of similar qualities has been very considerably *reduced* through the effect of the American competition, and the whole country has gained in this way more than sufficient to counterbalance the tax levied as a protection to the manufacturer." The farmer shared in this gain, of course, but the Commissioner is now apparently blind to a reduction in price which he could see very clearly in 1867. In fact it suits the present purpose of the Commissioner to ignore the past unfavorable seasons and the demands of war, which carried the price of farm products to a high rate for a few years, and the recent heavy crops and cessation of those demands, which reduced some products to the low prices of former years.

Nor is this the only instance of evident unfairness, for the Commissioner virtually assumes that wheat-growing is the farmer's only source of profit. He has apparently forgotten, or has chosen to suppress the fact, that the important articles of beef and pork have fully maintained the prices current during the war, and the further fact that the large body of farmers situated in the vicinity of manufacturing communities have had most profitable markets for perishable vegetables and fruits—markets which the extension of our industries is daily carrying to the doors of the agriculturists of frontier sections of the country.

He takes wheat as an article of comparison in his prices, *the lowest just now on the list of farm products*. Suppose that he had taken the important articles of pork, beef, and butter, or taken all these *with* wheat, he would have come nearer to getting a fair average of the farmer's con-

dition, as the following price-lists, compiled from the New York Journal of Commerce, will show :

Articles.	Gold. Fiscal year 1859.	Currency. Fiscal year 1869.	1869, in Gold at \$1.30.
Pork, mess, barrel	\$17 00	\$25 00	\$19 25
Pork, prime, barrel	13 00	28 00	21 50
Beef, plain western, barrel.....	9 50	22 00	16 90
Beef, prime mess, tierce.....	9 00	28 00	21 50
Lard, pound	11½	17½	13
Butter, western, pound	18	40	31
Butter, prime State, pound.....	20	48	36½

The prices given by the Journal are those of January 1, 1859 and 1869.

It is not a true and fair mode of showing the farmer's condition as a consumer to take the product lowest in price as a basis of comparison; yet this is the method adopted by the Commissioner. A specimen of this elaborate style of false reasoning may be seen in the Commissioner's table, (page 51,) professing to show the purchasing power of one hundred bushels of wheat in New York, in 1859 and 1869, with a large decrease to the farmer's disadvantage; from which it is argued that the tariff and the currency, especially the tariff, have wrought the farmer great injury. If the Commissioner had taken pork and beef as his basis, the result would have been entirely contrary to that which he has presented, yet perhaps not any nearer the truth; or, if he had taken wheat at the prices of 1868, with the same tariff, the then higher price of wheat would have changed his result, yet the conclusions would have been equally valueless as indicating the influence of the tariff and currency.

An honest way of showing the relative prices received by the farmers in different years would be to take the total products of agriculture, balancing those which rose against those which fell in the market. This may be partially illustrated by a brief analysis of exports in the years 1868 and 1869, which degrades wheat to a second place, even in the trade which is supposed to make it of chief importance.

The exports of wheat and flour in 1868 amounted to.....	\$41,693,647
The exports of bacon and hams, beef, butter, cheese, lard, tallow, and leaf tobacco, in same year, amounted to....	42,636,060
To this add corn and corn meal	4,827,198
Total	<u>\$47,463,258</u>

Pursuing the subject further we find :

Exports of articles above mentioned, except wheat and flour, in the year 1869	\$54, 430, 441
To this add corn and corn meal	13, 349, 191
Total	67, 779, 632
Exports of wheat and flour in same year	67, 832, 721

It appears that in 1868 the provisions and tobacco exported to foreign countries amounted to more than the wheat and flour, and in 1869 to but a trifle less. Summing up the two years, the results are as follows :

In 1868-'69, provisions and leaf tobacco exported	\$115, 242, 890
In 1868-'69, wheat and flour exported	109, 526, 368

It may be said that all these provisions and tobacco had risen in price or ruled proportionally higher than the products of other industries, and that the agricultural interest generally was finding an improved market and doing a profitable business. This is necessarily a partial and unfavorable view of the subject, for the range of home prices and the amount of home consumption should also be considered—an investigation so large that your committee cannot now enter upon it. It would disclose the extent and value of the home market for farm products created by the development of other industries, and their influence in diversifying agriculture, equalizing prices, and insuring plenty.

The Commissioner seems to be incapable of considering the farming interest in all its operations and relations. He prefers to sustain the theory of which he is the advocate by taking a single agricultural product, subject to extraordinary fluctuations, because of its special dependence upon a limited foreign market, and blaming its fluctuations upon the tariff and the currency. The one important lesson *not* taught by the Commissioner is, to beware of dependence on any one crop, or on distant and uncertain markets.

From the reports for 1867 and 1868 of Hon. Horace Capron, United States Commissioner of Agriculture, we find that our *total* wheat exports for *forty-three years* past have been, reducing flour to wheat, 670,000,000 bushels, equivalent only to the product of the *three years*, 1866, 1867, and 1868. Great Britain takes about *ninety-five per cent.* of our exports of grain to Europe, yet for twelve years, from 1857 to 1868, we forwarded to her but twenty-six per cent. of her imports, Europe furnishing the rest. Nor is this meagre result likely to be bettered in the future ; for, as President Grant says in his message : "The extension of railroads in Europe and the East is bringing into competition with our agricultural products like products of other countries."

Distance and the high wages demanded by our civilization put the western farmer at such increasing disadvantage against the grain-grower in Europe that he cannot compete with the latter for the foreign mar-

ket, save in seasons of poor harvests abroad. The plain remedy is to increase our home consumers by increasing our home manufactures; but the Commissioner, ever seeking to make out a case against our tariff and currency, ignores the teachings alike of common sense and experience.

The depreciation of our currency is a part of the "exceeding great price" paid for the nation's life in a terrible war; yet the industry of the country is gradually restoring to it the value and stability which all desire. Our taxes, too, are a part of that great price which all must share, and the farmer's ability to pay his portion must depend on the variety of his resources, that variety only increasing with the nearness and extent of his home market, which again can only be rendered permanent by the stability and variety of home manufactures.

WOOL AND WOOLENS.

On these important interests, or rather these two branches of one great interest, we find valuable facts in a pamphlet entitled "Remarks on that portion of the Report of the Special Commissioner of Revenue for 1869, relating to Wool and Woollens, addressed to the Chairman of the Committee of Ways and Means of the House of Representatives." It is prepared with evident care and accuracy, and signed by the executive committee and the able secretary of the *National Association of Wool Manufacturers*. Lest it might be thought a one-sided statement, the opinion of the president of the *National Wool-Growers' Association*, Henry S. Randall, of Cortland, New York, has been asked, and he replies, under date of February 14, 1870: "I approve of the pamphlet, and am having it republished in the Rural New Yorker." Mr. Randall is a practical and leading *wool-grower*, and thus we have concurrent and approving testimony of eminent representatives of *both* branches of a great home industry. We extract from their comments on some of the statements of the Commissioner, as follows:

"The undersigned are compelled to characterize the portion of the report above named relating to wool and manufactures of wool as abounding in grave errors and inconsistencies.

* * * * *

"In introducing his remarks the Commissioner assumes to give a history of the movement which, leading to the arrangements between the wool-growers and wool-manufacturers, resulted in the existing tariff. This movement, he declares, was commenced by gentlemen claiming to be wool-growers of the United States, but more especially interested in the breeding of sheep than in the growing of wool. So far from this being true, the delegates at the convention at Syracuse, where the movement first took a definite form, were the officers of the respective wool-growers' associations of New York, Vermont, Ohio, Illinois, Wisconsin, and New England. The executive committee, whom the manufacturers met, and who signed with them the joint report recommending

legislation, were appointed by the National Wool-Growers' Association formed at Syracuse, and of that committee (consisting of five) one only was especially interested in the breeding of sheep.

"The Commissioner thus disparagingly characterizes the work undertaken by the representatives of the wool-growing and wool-manufacturing interests: 'What was this work? Not to increase the revenues of the national treasury; not to promote the interests of the great mass of the people, to whom woollen fabrics are almost as much a necessity as food and shelter; nor to increase the wages or comforts of the laborers who grow the wool or manufacture the cloth, but simply and exclusively to influence legislation for the promotion of their respective gains and interests.'

"Contrast this statement with that which we find in 'Special Report No. 13 of the United States Revenue Commission on Wool and Manufactures of Wool,' made in May, 1866. The present Special Commissioner of the Revenue was a member, and, in fact, chairman of that commission. Although the report was written by another member, Mr. Colwell, no dissent is found on the part of the present Special Commissioner to the views of his associate.

"'The attention of the writer,' says the report last cited, 'as one of the revenue commission, has been turned to this important branch of industry (wool and woolens) since the commencement of his duties. Believing that the amount of internal revenue demanded by the state of our finances could not be realized without the vigorous and proper action of the leading classes, and that such continuous movement could not be maintained unless all the sources of domestic employment were opened and duly supported, *the classes directly interested were invited to a full exchange of views.*' * * * * *

"'As nothing can be more certain than that the industrial interests of these two classes in the United States are substantially identical, it was a principal object to have the fullest possible interchange of opinion between them. *Upon the first intimation of the wishes of the commission, the necessary conferences commenced, and continued for more than six months, without much pause, by conventions and separate and joint committees, in which the various interests of each class and the united interests of both were subjected to a scrutiny so patient, so intelligent, and so discriminating, that the utmost deference is due, and should be awarded, to conclusions so carefully prepared.*'

* * * * *

"The Commissioner asserts, in the late report of 1869, that the experience of two years has demonstrated the following consequences as the direct results of this tariff:

1st. Wool to the agriculturist at a lower price than has almost ever before been experienced.

2d. A decrease in the number of sheep in the United States, estimated at four millions for the single year.

"In considering the present low price of wool and the destruction of sheep, we remark some omissions, which are quite extraordinary in view of the responsible position which the Commissioner occupies.

"How comes it that he ignores or suppresses the great controlling facts of the glutting of all the markets of the world, except that of this country, with the over-production of the fine wool of the southern hemisphere, and of such a destruction of sheep in Australia and the country of the La Plata as has no parallel here?

"In Australia the progress has been from 32,000,000 pounds in 1859 to 66,000,000 pounds in 1866, an increase in seven years of 108 per cent.* In the Cape of Good Hope, from 11,500,000 pounds to 21,000,000 pounds, an increase of 87 per cent. In La Plata, from 16,000,000 to 59,000,000 pounds, an increase of 268 per cent. 'The lowering of the price of La Plata (mestiza) wools,' says M. Aubée, 'in the French reports of the Paris Exposition, within four years, may be set down, without exaggeration, at 40 per cent.'

"In 1866, under the low duty on wool, practically three cents per pound, the imports into the United States from the two great competing countries in fine wool production were 22,693 bales from Buenos Ayres, and 14,067 bales from the Cape of Good Hope. In 1868, after the wool tariff went into operation, the imports were reduced to 4,604 bales from Buenos Ayres, and 1,986 bales from the Cape of Good Hope.† Is it conceivable that a diminution of importation to the extent of 30,176 bales brought down the prices of our domestic wools, and this while the mills were still in full activity? It is needless to multiply arguments in proof of the saving influences of the present tariff upon our sheep husbandry, or to cite authorities from the united voices of the agricultural press, of the Commissioner of Agriculture, and of the wool-growing associations throughout the United States.

"We find this extraordinary statement by the Commissioner:

The wools of the United States are mainly merino clothing wools, which can be produced in any quantity, and at prices which defy foreign competition. Wool has been raised in Texas, during the last year, in large quantities, at an estimated cost of seven cents, gold, per pound; and it has readily commanded twenty-five cents per pound.

"Manufacturers and wool-growers will learn with surprise that good merino clothing wools are produced in Texas for seven cents a pound, and that any clothing wools are produced there in available quantities, which will serve as substitutes for the wools of Ohio and Michigan; and with more surprise, that merino clothing wools can be produced in this country at prices which defy the foreign competition of wools entering here without duty. If this be true, wool has the exceptional privilege of being exempt in its production from the influences of high cost of labor, of interest of capital, of charges of internal taxation, State and national, and of the high demands of American civilization. In other

* Mr. Moll's report on wools at Paris Exposition.

† Mr. Lynch's statistics, Bulletin of National Association of Wool Manufacturers, p. 84.

words, the American farmer can freely compete with the half savage shepherd of the pampas. If this be true, why is not American wool produced for exportation? But it is well known that our exportations of wool to all the manufacturing nations of the globe, in a single year, have not been equal to our importations of playing-cards. That Texas and the unoccupied lands of the South and Southwest open the prospect of profitable fields for sheep husbandry is admitted, and this consideration was urged as reason for applying the stimulus of protective duties for the development of these fields. But the most sanguine friends of the tariff were not aware that the hoped-for effects had been realized in two years.

“Another statement, that ‘wools which the existing tariff excludes are mainly wools which are either not grown, or grown in very limited quantities here,’ is far from correct. The main object of the wool-growers in their demands for increased duties on wool was to check the ruinous competition of the foreign wools, which were being used as substitutes for the ordinary American wools. The American wools now take the place of the medium mestiza wools, formerly imported so largely. The great bulk of the wools excluded by the tariff is of this class. The substitution of the American wools has proved, moreover, highly advantageous. We find the published statement of a well-known manufacturer as follows: ‘In 1865 and 1866 we had a large amount of goods made of mestiza and other foreign wools, and were continually having claims made against us for imperfect goods. We abandoned the idea of making any more goods of mestiza, and from that time to this have never had a claim made upon us for a piece of feeble goods.’ Provision was made for the admission, at a mere revenue duty, of wools which it was admitted could not be profitably grown here. The protective duties were made to apply to the superfine wools and combing wools, as well as to the ordinary competing merino wools; to the superfine wools, because they had been grown here with profit and of unrivaled excellence, and to the combing wools, because upon public grounds there is no branch of sheep husbandry more desirable to nationalize.

* * * * *

“The Commissioner, in a tone of hostility toward our industry which is hardly disguised, calls upon ‘the great mass of the American people, especially the working men and working women toiling to elevate themselves, with the multitude of clerks, accountants, professional men, pensioners, and others who deny themselves, and economize their slender incomes to make the year’s receipts balance the year’s expenditures, ‘to so direct public opinion and suffrage as to compel the abandonment of the existing policy,’ that they may be enabled to purchase cheap clothing.

“If the increase of the price of cloth is less than the increase of the wages of labor, the laboring consumer cannot complain of the existing policy. A just comparison of the cost of most finished woolen fabrics

cannot be made between those of different periods on account of the almost invariable differences of style, finish, and raw material. The only article forming a proper standard of comparison is flannel, which is the basis of all card-wool cloths. Reliable returns from the two leading agencies of flannel mills in the country, representing more than twenty different establishments, show that the selling prices in September, 1869, were in one house twenty-one per cent. and in another sixteen per cent. less in gold than in 1860. On the other hand, the books of a mill producing cloths more extensively and of greater variety than any other establishment in the country, and employing two thousand five hundred operatives, show an advance in wages in gold, from 1860 to September, 1869, of thirty-seven per cent. for female operatives, and fifty per cent. for male operatives. These facts show conclusively that the protection to the woolen industry, if to no other, has been a boon to laborers and consumers."

The following statement of the comparative prices of standard flannels, furnished by leading manufacturers to Mr. Greeley, and published in his "Essays on Political Economy," is referred to as being unquestionably correct :

Fabric.	Price in 1859. (Gold.)	Price in 1869.* (Gold.)	Currency. Price in 1869.
Flannels per yard :			
A. and T. white	\$0 18	\$0 16	\$0 21
H. A. F. scarlet.....	26	23	30
J. R. F. twilled scarlet.....	30	29	37½
B. twilled scarlet.....	26	25	32½
Double weight scarlet, twilled	27½	30¾	40
F. & C.....	36	34½	44½
Talbot R. ¾ plain scarlet.....	26	25	32½
G. M. & Co., twilled scarlet.....	23	20¾	27
E. S.	25	23	30
N. A. M.	25	23	30
Ballardvale 4-4 white, No. 1.....	75	65½	85
Ballardvale 4-4 white, No. 2	60	53½	70
Ballardvale 4-4 white, No. 3	45	40½	52½
Ballardvale 4-4 white, No. 4	40	34½	45
Ballardvale 4-4 white, No. 5	35	32¾	42½

* Equivalent in gold, (gold at 130,) October average.

We give another table, comprising a list of *all* the woolen fabrics dealt in by a great commission house, and the two will show that, even with labor paid higher wages, with capital dearer, taxes much higher,

and wool protected, woollens are actually cheaper to-day than ten years ago. This table was furnished at the request of the New York Tribune by Mr. S. W. Fay, of Perry, Wendell, Fay & Co., commission merchants in New York, Boston, and Philadelphia :

Standard woollens.	Prices in gold. 1860.	In currency. 1870.
Ravine mixed, all wool doeskins, 12 to 13 ounces. . . .	80 to 85c.	80 to 85c.
Munson satinets, (standard article)	50 to 55	50 to 55
Staffordville satinets	60 to 65	60 to 65
Printed satinets	25 to 62½	25 to 62½
10-4 Holland blankets, 4½ pounds	\$3 25	\$5 00
11-4 Holland blankets, 4½ pounds	4 75	6 75
"Talbot" R. scarlet flannel, ¾, (standard)	26	30
"F. & C." twill scarlet flannel, ¾, (standard)	34	45
Richmond Kentucky jeans, (standard)	26	32½
Washington Kentucky jeans, (standard)	27	34
Palestro Kentucky jeans	14	14½
St. Lawrence plaids	21 to 22	23½
Leicester tweeds, (standard)	62½	65
Waterloo blanket shawls	8 00	7 50
Belvidere 9-4 printed table covers	87½	92½
Mixed and plain cashmerettes	50 to 55	52½ to 60
Boys' all wool checks	55 to 60	57 to 62
Shaw diagonal all wool cassimeres, 10 to 11 ounces . .	80 to 85	75 to 80
Evans double and twist, 8 ounces, all wool	75	80
Middlesex sackings	1 10	1 25
Middlesex doeskins	1 05	1 15
Middlesex shawls	7 00	7 00
Washington sackings	1 05	1 15
Glenham sackings	1 05	1 10
Glenham repellents	1 15	1 20

It is thus evident that the "great mass of the American people," the toiling clerks and working women whom the Commissioner calls upon to protest against the wool tariff, have, as consumers, no reason to complain of the existing prices for woollen goods. If, then, the producers proclaim that they are equally well satisfied with the operation of the tariff, it is difficult for your committee to see any reasonable cause for disturbing it.

The same inexplicable carelessness of assertion is found in the Commissioner's surprising statement that one of the results of the wool tariff has been "a decrease in the number of sheep, estimated by the Commissioner of Agriculture at four millions for 1868, while other authorities place the

total decrease as high as twenty-five per cent. since the passage of the wool tariff."

The truth is that, by the reports of the Department of Agriculture for 1867 and 1868, we find the number of sheep for February 1, 1868, (see page 93,) stated at 38,991,912, and for February 1, 1869, (see page 46,) at 37,724,279, a decrease of 1,267,633. Even this inconsiderable decline is already more than checked, for we learn from the statistician of that department that "The report for 1869 will show, including recent and more complete data from the more western States and the Pacific slope, not far from 40,000,000 sheep on February 1, 1870." Thus there is *not* 4,000,000 decrease for 1868, or "a total decrease of 25 per cent.," but an actual increase.

To take the number of sheep butchered for their pelts and tallow, and not allow for increase of lambs; or to take the decrease in some States, and not the transfer and increase of more western regions, might possibly make an apparent decrease of 4,000,000, and it is probably in some such manner that the Commissioner, in this case, as in so many others obtains the figures with which he seems to prove his foregone conclusions.

The Commissioner expresses great self-satisfaction in referring to his report of 1867, and in proclaiming that, in accordance with its prognostications, "wool, from the passage of the wool tariff in 1867, has continually fallen in price." He neglects, however, to indicate the causes of this decline; preferring to refer to the tariff everything that he thinks may render it unpopular, he assumes the reduction in price to be the result of increased duties, though everywhere else he treats the tariff as a "tax" which inevitably enhances prices. The truth is, that, as the Wool Manufacturers' Association has shown, the decline in price is the direct and inevitable result of an increased production of fine wools the world over, which has outrun the consumption of the world. This increase, the committee are informed, had reduced the price of fine wools, in London, more than eleven cents in gold below the averages of previous years, and this reduction occurred *before* the passage of the wool tariff. In view of this fact it needed no prophetic endowments to predict low prices for wool in the United States.

The experience of Great Britain and France is referred to by the Commissioner as establishing the policy of having free wools here, but with customary lack of impartiality he fails to show that there is no parallel in the circumstances of this and these other countries. The chief production of England is combing wool, of which she has the monopoly more truly than we have of cotton. Of course, free merino wool, which she does not produce, is a boon to her manufacturers and no injury to her agriculture. On the other hand France does grow merino wool, and that of great excellence, and, notwithstanding the quoted report of M. Budrillard, the testimony from other sources is conclusive that the free admission of foreign wools is extinguishing the merino-

wool husbandry of France. The wool-growers of Cote d'Or, the finest merino-wool district of the empire, in a petition addressed during the present year to the Emperor, say: "In the presence of an invasion which tends to substitute foreign wools for the French, the sale of the latter has become impossible." M. Moll, in his report on wools at the Paris Exposition, declares that the culture of the Rambouillet merinos, the pride of France, must be abandoned in all the northern half of the empire, and gives as a principal reason, that "in consequence of the extreme facility with which wool is transported, we find ourselves in our own markets in competition with the most favored countries of the globe in the production of this article."

It is thus evident that in this, as in so many other cases, the Commissioner has selected and distorted facts, with the purpose of supporting preconceived theories; and legislation based upon his partial and one-sided statements would be manifestly unsuited to the wants of the country.

At the late annual meeting of the Northwestern Wool Manufacturers' Association, at Chicago, February 17, were many men of practical experience, as well as eminent character and ability, among them A. M. Garland, president of the Illinois Wool Growers' Association. After thorough discussion, the following resolution was passed, with but one dissenting vote:

Whereas efforts are being made by the advocates of free trade to influence Congressional legislation, and secure the repeal, or serious modification, of our protective tariff laws; and believing that the present depression in our manufacturing interest does not, as is alleged in the arguments of the opposition, arise from or is the result of our protective tariff, but that it is entirely dependent upon other influences, mainly arising from the war: Therefore,

Resolved, That this association earnestly protest against any change in our present tariff laws, and that we urge upon our members of Congress the duty, and our earnest desire, that they leave the present duties on wools and woolens in full force.

At the annual meeting of the New York State Sheep Breeders and Wool Growers' Association, held at Syracuse, March 2, 1870, the following resolutions were, after a full discussion, unanimously adopted:

Resolved, That this association retains its full confidence in the wool and woolen tariff as the best legislation which can now be devised to benefit equally the ultimate and permanent interests of the wool grower, the manufacturer, and the consumer.

Resolved, That we are opposed to any amendments in such act, excepting those which are necessary for the better carrying out of its original intent and objects.

Resolved, That we repel with indignation the imputations cast by the United States Special Commissioner of Revenue, David A. Wells, on the motives of the representatives of the wool producing and manufacturing interests who framed the present wool and woolen tariff; that such imputations are as uncalled for as untrue.

HENRY S. RANDALL,
President.

H. D. L. SWEET,
Secretary.

COTTON MANUFACTURE.

A letter dated from the "Office of the National Association of Cotton Manufacturers and Planters," Boston, Massachusetts, March 28, 1870, addressed to the Chairman of the Ways and Means Committee of this House, and signed by officers of that association, is before your committee, and they avail themselves of the privilege of giving its clear and weighty comments on the Commissioner's report, so far as it refers to the cotton manufacture, as follows:

"The Special Commissioner of Revenue, on page 17 of his late report, gives what purport to be the statistics of the manufacture of cotton in the United States for the year 1869. These 'statistics' consist in part of facts furnished by others, and in part of estimates made by the Commissioner himself. To the class of facts belong the 'number of spindles,' viz, 6,930,346; the 'average number of yarn,' namely, 28; and the 'capacity of cotton,' to wit, 450,000,000 pounds. These items, furnished by the labors of the Cotton Manufacturers and Planters' Association, are, beyond doubt, substantially correct.

"Upon the basis of these facts the Commissioner frames sundry estimates to exhibit the relative importance of cotton manufacture among the various industries of the country. 'Capital represented' is made upon an assumed unit of \$20 per spindle, in currency.

"If the cotton manufacture of the country were confined to plain goods, if it required no *working* capital in addition to that invested in the *plant*, if its outlays in bleacheries, dye-houses, repair-shops, and boarding-houses were an inconsiderable item, the figure assumed would not be so much in error. It is in error to the amount of one hundred per cent. We do not hesitate to hazard our professional judgment and credit upon the declaration that the capital represented in cotton manufacture in the United States for the year 1869, including the floating and that invested in the various forms just recited, was not less than \$40 per spindle. The aggregate capital, accordingly, as represented by the Commissioner on the one hand, and as required by the truth on the other, would stand thus:

Commissioner's estimate.

\$138,606,920.

Correct estimate.

\$277,213,840.

"The publications of the Manufacturers and Planters' Association, from which the Commissioner's facts were chiefly drawn, contain an estimate, published in 1868, made by the president of the association, Hon. Amos A. Lawrence, of the capital represented in cotton manufacture, the figure assigned being \$240,000,000. The estimate is based on an assumed number of 6,400,000 spindles, and, when applied to the real number, viz, 6,930,346, gives an aggregate of \$260,000,000.

"It appears, however, that it did not suit the purposes of the Commissioner to give further publicity to figures so just, and so favorable to the credit of cotton manufacture, as those of Mr. Lawrence, though

ready to his hand and sanctioned by an authority so weighty. Such figures did not, of course, well comport with the theory elsewhere advanced and repeatedly dwelt upon in his report, that the manufactures of the country are of comparatively small consequence.

"[2.] The Commissioner next proceeds to estimate the '*value of the product*' for 1869. The aggregate figure at which he arrives is \$184,000,000.

"In lieu and in correction of this figure, we beg to submit the following estimate, which we vouch for as substantially correct. The estimate is based upon returns at the mill.

"Of the total product of cotton manufacture, in pounds, we estimate that one-third, or 125,000,000 pounds, were in prints; one-sixth, or 62,500,000 pounds, were in brown cottons; one-fourth, or 93,750,000 pounds, were in bleached cottons; one fourth, or 93,750,000 pounds, were in colored cottons.

"The value of these manufactures was not less than as follows:

125,000,000 pounds, at 80 cents per pound,	\$100,000,000
62,500,000 pounds, at 48 cents per pound,	30,000,000
93,750,000 pounds, at 60 cents per pound,	56,250,000
93,750,000 pounds, at 65 cents per pound,	60,937,500
375,000,000	247,187,500

"In round numbers, \$247,000,000.

"Or, stated in the form adopted by the Commissioner:

"Cotton, at 27* cents	\$121,500,000
"Interest, at 6½ per cent.....	17,500,000
"Labor	72,000,000
"Supplies and repairs	36,000,000
	247,000,000

"Accordingly, the product as represented by the Commissioner on the one hand, and as required by the facts on the other, stands thus:

Commissioner's estimate.

\$184,000,000.

Correct estimate.

\$247,000,000.

"The true estimate is thirty-four per cent. in excess of the Commissioner's.

* * * * *

"[3.] But cotton manufacturers regard themselves justified in still louder complaint at the use made of figures on page 20 of the report. The value there placed to the credit of agriculture will be seen, upon referring to pages 15 and 16, to be *gross* value. That there may be no doubt upon this point, attention is invited to the last two lines of the first paragraph of page 48, in which the sum total referred to is expressly declared to be the *gross* value of the product of agriculture. It is really

* The Commissioner assumes that cotton at the mill cost 25 cents. It did cost at least 27 cents. Its cost at the shipping ports was 25 cents.

more than this, for a large amount of transportation value is added in to produce the aggregate. Corn was not worth 50 cents the bushel on the farm in the average of the country, nor cotton worth 25 cents the pound on the plantation, but at the distributing centers and the shipping ports, and so on of the other products.

“When now the Commissioner compares the product of cotton manufacture with the product of agriculture, instead of putting them down together, gross against gross, he first deducts all the raw material of the manufacture, all the transportation, both of the cotton to the mill, and of the goods to the distributing points, and having thus cut the product down to \$71,500,000, places it in comparison with the total *gross* product of agriculture, increased by considerable transportation value!

* * * * *

“When, in contrast with this extraordinary mode of computation, to the *real* value of the product of cotton manufacture at the mill, a proper sum is added for transportation to the distributing centers, the resultant amount, which should have been put in comparison with agriculture by the Commissioner, instead of being \$71,500,000, would be largely in excess of \$247,000,000.

“[4.] The Commissioner fixes the number of hands employed in cotton manufacture at 125,000. A careful estimate, based upon both the number of spindles and the consumption of cotton, shows that those employed within and about the mills, also in bleacheries, dye-houses, repair-shops, and in handling the goods in and between the various processes, number not less than 208,000 persons.

Commissioner's estimate.

125,000 persons.

Correct estimate.

208,000 persons.

“In other words, the actual number employed is 66 per cent. above the Commissioner's estimate.

“[5.] On page 48 the Commissioner proposes to show that the ‘agricultural interests of the country’ are not greatly ‘dependent upon certain special industries for a market for their products.’ He sets forth that the direct consumption of agricultural products by cotton manufacture is only \$19,500,000 per annum. Now, so far as regards the farmer or planter, it matters not what use is made of his product, whether it be eaten or manufactured into merchandise, so it be bought and paid for. When bought and paid for, it is for him consumed. Premising this, attention is invited to the statement on page 17, that cotton manufacture consumed, in 1869, 450,000,000 pounds of agricultural product in the form of cotton alone, valued at \$112,500,000.

“The statement, accordingly, of the direct consumption of agricultural products by cotton manufacture, as made in different parts of his report, stands thus:

Commissioner's statement.

Page 17.

(of cotton only,)

\$112,500,000.

Commissioner's statement.

Page 48.

(grand total,)

\$19,500,000.

“Special commissioners of the revenue, who, on one page attempt to show the trifling importance of the market afforded to agriculture by a great branch of manufacture, should not forget what they have written on a former page.

“When to the cotton consumed, the food of the operatives, the starch made from potatoes, corn, and wheat, the leather, the oil, the grease, and other articles of agricultural derivation, consumed in cotton manufacture, are added, the aggregate of direct consumption alone will unquestionably rise to \$150,000,000.

Commissioner's figures.

\$19,500,000.

Correct figures.

\$150,000,000.

* * * * *

“It is worthy of attention, in passing, that the three branches of manufacture, cotton, wool, and iron, are shown by the figures given on pages 15 and 48 of the Commissioner's report to have consumed, in 1869, over \$321,000,000 of agricultural products, an amount exceeding the total export of those products for the fiscal year 1869. In other words, the market made by these three branches of manufacture really exceeded in importance to the farmer the entire foreign market. Yet on page 48 the Commissioner attempts to demonstrate the comparatively trivial consequence to the farmer of the market made by these manufactures.

“[6.] On page 37 of his report the Commissioner takes occasion, by quotation, to announce to the world that the American cotton operative receives but little more than a ‘sufficiency for his bare subsistence, owing to the high prices exacted from him for food, fuel, clothing, and rent. There is a great difference between bare subsistence and a good living. The American operative supports his household, as to food, clothing, schooling, &c., without help, in a style of positive luxury as compared with the European. If without a family, he lays up money, being able, as the Commissioner himself has publicly declared, to visit the sea-side and take other expensive recreation. Already this portion of the report is being set before the emigrating populations of the old countries as a warning against their projected removal, and is being dwelt upon in public addresses beyond sea, and in the public prints, as honest testimony as to the ill condition of American labor. Of what avail is it that the South and West are incurring large expense for immigrant agencies, publications, and advertising, with the view of drawing in laborers from beyond the ocean, if an official representative of the nation is to be allowed in such a manner to discredit the condition of American labor?

“It is to be observed, too, that the Commissioner, in virtual contradiction of his own statement, declares on page 54 that within a few years the wages of workers ‘have generally been greatly advanced,’ as is certainly the case with cotton operatives. He further declares that workers are doing far less labor than ever before, ‘two-thirds as much; twenty-five per cent. discount; three men do the work of two; one-fourth to one-third less,’ &c. It further appears, on pages 51 and 52, that the staples of food could be bought at a lower price in 1869 than in 1867,*

and in some respects cheaper than before the war; this fact being made the occasion by the Commissioner of prolonged lamentation over the hardships and sufferings of the farmers of the country. Thus, in almost the same breath, the Commissioner condoles with the operative because agricultural products are too high, and with the farmer because they are too low, the natural effect of which would be to excite the discontent and disaffection of both.

"We do not deem it necessary to make further exposure of the errors and self-contradictions of the Commissioner in all that pertains to cotton manufacture or the laborer. Nor shall we take it upon ourselves to show, what can easily be shown, that his deliverances in former reports are entirely inconsistent with those of the present. Much less shall we enter upon the far wider field of his treatment of other branches of manufacture, though assured that his mistakes have been quite as extraordinary in connection with them as in relation to our own. It suffices our present purpose to enter a general remonstrance against his report, as in all that relates to our own industry, grossly unreliable and unjust. Without attempting to sit in judgment upon the motives or intent of the Commissioner, we do not hesitate to affirm that the real effect of his report is to belittle the importance of cotton manufacture among the great industries of the country, by certainly one-half its real amount. As large employers of both labor and capital, we find it impossible not to share in the common mortification and resentment of the manufacturers of the country, when in an elaborate public document, treating at length of labor, wages, and industry, there can be found hardly a single remark upon the relations of employers and employed but makes suggestion of tyranny and avarice on the part of the one, of privation and hardships on the part of the other. 'The encroachments and oppressions of capital;' 'the subordination of labor to capital;' 'highly organized and aggressive associations of capitalists,' dictating when taxes shall be reduced or removed; 'the discontent of the real producing classes.' The laborer no longer able to live in his own house, but crowded into tenements; going in 'one collection district' into the poor-house in unwonted numbers; unable to hold good the measure of accumulations in the 'savings banks of New York and Massachusetts;' the 'rich growing richer and the poor growing poorer'—such are the suggestions with which this official publication is replete, suggestions calculated to exasperate the jealousy of labor against capital, and to inflame against the rich the hostilities and hatred of the poor. From the reading of the report one would certainly never derive the impression that manufactures are desirable branches of national occupation, or a blessing rather than a bane to the farmer, the laborer, or the country.

* * * * *

"What conclusions the Commissioner, as an individual, may reach respecting our own industry or any other, or what promulgations he may see fit to put forth respecting it, the developments hereinbefore made

show, as we think, to be of no consequence whatever. But his official position, and the transcendent interest of the questions submitted to his judgment, give an importance to his utterances altogether disproportioned to their intrinsic weight or value. This alone has led us to enter this protest against his report. * * * *

"We ask that cotton manufacture be not exposed another year to the liability of such misrepresentation as it has suffered in the last. If it cannot be more fairly represented than in the Commissioner's report, we pray that it be not represented at all."

GUNNY CLOTH AND GUNNY BAGS.

The statements and recommendations of the Commissioner touching these articles are given to show their inaccuracy.

The present duty on gunny cloth and gunny bags is three cents per pound; or near one hundred per cent. of their market value, a rate so excessive that the import from Calcutta has almost entirely ceased. The import of gunny cloth, which was returned at 75,000 bales in 1860, was reduced to 14,000 bales in 1868, and has not exceeded 5,000 bales in 1869. * * * The result is manifestly detrimental to the revenue. * * * A reduction of the price of gunny cloth would result to the advantage of the agriculturists of the country, affording a cheaper material for the inclosure and transportation of cotton, corn, and similar products. A duty of one cent a pound, as the maximum, is, therefore, recommended on gunny cloth and gunny bags.

Gunny cloth is called a material for the inclosure of "corn and similar products," as well as cotton, but it is so coarse as to be useless for grains, and is used *only* for cotton. Gunny *bags* are of finer and closer stuff and are used for corn, but the increase of grain elevators is rapidly diminishing the use of bags for corn. Statistics obtained from dealers in the article show that the actual import of gunny *cloth* in 1869 was 10,067 bales, instead of "not exceeding 5,000 bales," as stated by the Commissioner, and the stock on hand January 1, 1869, was 28,903 bales.

There were 27,000 bales of imported gunny cloth delivered to consumers for use on the cotton crop of 1869-'70—enough to cover 1,620,000 bales of cotton, or more than half the crop, yet the Commissioner says "the importation from Calcutta has almost entirely ceased."

There is another reason, too, for the decrease of gunny-cloth imports, which is not given in the report. Half the bagging made in this country is made of jute and jute butts, imported from Calcutta, of which only 14,963 bales were brought to our ports in 1860; but 94,478 bales were imported in 1869.

The low grades of hemp, flax and tow grown by our western farmers are used for about half the bagging we make, and their market would be injured or destroyed if the low tariff should depress the making of American bagging; yet the Commissioner's argument is that keeping up our imports will give us revenue, and he promises to our agricultural interest a cheaper material for the inclosure of "corn and similar products" by a "reduction of the price of gunny cloth" under his lower

tariff, when gunny cloth is not and cannot be used for grain bags of any kind!

As for the revenue aspect of the case, the Commissioner is equally astray. The 27,000 bales (20,655,000 pounds) of imported gunny cloth used for covering cotton this season paid the government \$619,650, at a duty of three cents a pound. Had the whole crop, say 2,620,000 bales, been covered by imported gunny cloth, paying a duty of one cent a pound as the Commissioner recommends, the 33,405,000 pounds required would have paid a revenue of but \$334,050. Thus not only is the revenue increased, but the growth of hemp and flax, together with the home manufacture of bagging, is stimulated by the policy which the Commissioner deprecates.

SALT.

On page 49, the Commissioner says: "The farmer finds he can purchase salt in Liverpool or Cadiz and lay it down in the United States at from 15 cents to 20 cents per bushel; but the government, through its currency and tariff, has imposed such a tax on it as to make it better for him to pay from 40 to 45 cents for American salt."

Even the extravagance of this statement does not satisfy the proneness of the Commissioner to exaggerate whatever he thinks may prove his theory. On page 51 he returns to the subject, and asserts that Liverpool salt has risen in price from 90 cents per bag in 1859 to \$2 60 per bag in 1869. Again, page 53, he recurs once more to the salt question, and gives us a third statement to the effect that the price of salt has been enhanced from 20 and 23 cents in 1860 to 40 and 50 cents in 1869. These contradictory assertions are equally unfounded, and the truth of the matter will appear from the following table, which demonstrates two things, viz: that the figures of the Commissioner are wholly unreliable, and that the advance in the price of salt has not been caused by the tariff, but is due simply to the premium on gold. In fact, measured by a gold standard, salt is cheaper to-day than it was in 1860.

Comparative prices of foreign and domestic salt (cost of packages included) on measured bushels.

Places.	Foreign. 1860.	Domestic. 1860.	Foreign. 1869.	Domestic. 1869.
		<i>Gold.</i>		<i>Currency.</i>
Boston.....	\$0 25	.....	.....	\$0 28
Cleveland.....	40	\$0 32	.....	34
Detroit.....	41	33½	.....	34
Toledo.....	40	32½	.....	33
Chicago.....	42	32½	.....	34

The average price of Onondaga salt in bulk in New-York, in 1866, 1867, and 1868 was 25 cents gold, or 35 cents currency; and in 1869 hardly 32 cents in currency, by the reports of commercial agents of the Onondaga Salt Company. The competition between Onondaga, Saginaw, and West Virginia keeps the interior prices as above, and it appears that the tariff, far from enhancing the cost to the consumer, has, by stimulating domestic production, actually *reduced* it.

Following up his crusade against the salt manufacturers, the Commissioner endeavors to show, from our exports of that article, that protection is wholly gratuitous. To accomplish this, he states, page 86, that our yearly exports to the British possessions are "upward of 500,000 bushels," and that "we are able to maintain such an export year after year in defiance of all competition." The truth is, that as long as no salt was made in Canada our exports were about 500,000 bushels per annum, but since salt springs have been worked at Goderich they have fallen to 290,000 bushels in 1869, and are still decreasing.

Throughout his whole treatment of this salt question the Commissioner seeks to convey the impression that the salt manufacturers of the United States are either extortioners or incompetents, who deserve to be driven from their business, and he does not hesitate to go all the way to Spain—a country which has been impoverished by free trade legislation—for a missile to hurl at them. He shows great facility, too, in concealing facts that favor the claims to protection of the domestic manufacturers of salt, and equal readiness in giving partial statements that do them injustice. On page 88 he introduces a letter from Duncan Stewart, president of the Saginaw Salt Association, asserting that the present tariff on salt is an outrage on the country, and that one-half of the duty is all that the Saginaw interests desire. The title appended to Mr. Stewart's name is calculated to make the country believe that he speaks by authority for the salt manufacturers of Michigan. To show how erroneous this is, and how the *real representatives* of the Saginaw salt interest have been ignored, we extract from a letter from H. M. Fitzhugh, of Bay City, Michigan, president of the Saginaw and Bay Salt Company, a large concern made up by the consolidation of several companies, with its sixteen directors in Saginaw and its neighbor, Bay City, and representing *the manufacturers of nine-tenths of the salt made in the Saginaw Valley*. Mr. Fitzhugh dates from the company's office, Bay City, January 29, 1870, and writes as follows:

* * * * *

Mr. Duncan Stewart represents no one but himself. There could be no objection to Mr. Wells publishing his opinion, if he were not represented as president of the Saginaw Association of Salt Manufacturers, whereas he is president and principal owner of the Saginaw Valley Salt Company, a small concern, which made in the last year only 9,578 barrels of salt.

* * * * *

Saginaw does *not* want the duty on salt *disturbed*, so far as I know. * * *

I gave the Bureau of Statistics my opinion in full on this question, in response to the circular from that office. Mr. Wells does not allude to it, but prefers to quote Mr. Stewart, calling him president of our association, which is incorrect. You can make any use of this letter you choose.

Very respectfully, yours,

H. M. FITZHUGH,

President Saginaw and Bay Salt Company.

The writer of this letter is well and widely known, and represents the makers of 3,000,000 bushels of salt, while the so-called "President of the Saginaw Association of Salt Manufacturers" represents no one but himself.

The Commissioner says, in speaking of the iron interest, that but few iron-makers answered his circular of questions. Surely they and others could effect little by doing so if this is a sample of his mode of using such answers.

The Commissioner's anxiety in regard to the heavy tax which he says the salt tariff imposes on the people is ludicrous in its contrast with his total indifference to far heavier burdens. He estimates the added cost of the 39,000,000 bushels of salt used each year at \$3,900,000, or ten cents per bushel, owing to the tariff; but this is too high, as the average consumption is some forty pounds per head, which would show an annual amount of not over 26,000,000 bushels. On this the tariff is but 8 cents, and if the price were enhanced to this extent, which we have shown not to be the case, the total increased expenditure by the people would only be about \$2,000,000—little over one-half of what the Commissioner has estimated it. Granting, however, that the Commissioner is correct in his statement, his proposition to raise \$60,000,000 yearly from duties on tea, coffee, sugar, and molasses, the one-half of this to be paid by a tariff on sugar alone, would impose a far heavier burden on the people than the small revenue derived from foreign salt.

COAL.

On page 89 of the report the Commissioner again renews his recommendation for "the entire removal of all duties imposed upon the importation of coal," alleging as one argument in favor of the recommendation, that "coal is a necessity of life—next in importance to food; indeed, as both are in our climate absolutely indispensable, it cannot be said that either is more or less needful than the other, for life cannot be sustained without both. The universally recognized principle of taxation—that a tax should be taken from what can be spared—forbids the laying of a tax upon that which is indispensable to rich and poor alike." On page 129 of the report the Commissioner himself discredits and ignores this same argument concerning the necessities of life and the things that are "indispensable to rich and poor alike," for he there proposes the schedule of a tariff which would heavily tax the coffee and sugar of the laboring man and the tea of the poor widow and under-

paid seamstress. Coffee, sugar and tea are, according to Mr. Wells' own philosophy, greater necessities of life than coal, for they are "*food*"—sugar *especially* is food; yet the Commissioner, in contempt of his own teachings, would tax food, the prime necessity, and admit foreign coal, a minor necessity, *free*. Coffee, sugar, and tea are necessities of the masses of general consumption, which must be almost wholly supplied by foreign countries, while the owners of foreign coal, for whose benefit the Commissioner pleads so earnestly, could not supply with their product one-tenth of the demands of the country, no matter how favorable the facilities might be for its introduction. Has not the Commissioner thus placed himself in the position of an advocate of a *special interest* which affects comparatively few consumers, while ignoring the claims of the whole country to *untaxed food*?

But the Commissioner does not here rest his argument. He adds: "Coal, moreover, is not only a necessary of life, but the source of motive power. To tax coal, therefore, is to tax power; to tax the force of the steam-engine, to starve the laborer on whose strength we depend for work. To do this as a part of a plan of promoting domestic industry seems the reverse of wisdom." Farther on he states: "The protection of coal means, then, the *enhancement of its price* by a duty, so that the consumer may be obliged to buy coal raised in the United States rather than that procured abroad." These are grave statements, which challenge investigation. Are they true? Has the experience of the past shown that the duty on foreign coal starves the steam-engine, and does it result in the "enhancement of its price?"

The committee find that the duty on coal has not had the effect of increasing the cost of either foreign or domestic coal to the American consumer, and in support of this view submit statistics obtained from sources entitled to the highest credit. About two-thirds of the coal imported into the United States comes from Nova Scotia. For twelve years, from June, 1854, to March, 1866, the reciprocity treaty between this country and the British provinces permitted Nova Scotia coal to be admitted into our ports free of duty. Since 1866 a duty of \$1 25 (gold) a ton has been imposed. A comparison of the prices obtained for Nova Scotia coal and for American bituminous and anthracite coal, for a series of years, say from the first year of the war to the present time, will establish the inaccuracy of the Commissioner's statement that the duty has operated to enhance the price. A table showing this comparison is subjoined. The price given is the *average* for the years named and for the month of April, 1870.

Table showing the average prices obtained for Nova Scotia coal and for American bituminous and anthracite coal, from 1861 to 1870, together with the effect of the duty on foreign coal on these prices from 1866 to 1870.

Year.	Prices of Nova Scotia coal at Boston.	Average gold premium.	Premium added to price of 1861.	Duty—currency.	Premium and duty added to price of 1861.	Price of Cumberland coal at Baltimore.	Reduced prices of same coal in gold.	Price of anthracite coal at Philadelphia.	Anthracite in gold.	Imports from British possessions.	Tonnage of American bituminous coal at seaboard.	Profit to producer of Nova Scotia coal above that of 1861.	Profit to the United States per ton.	Remarks.
	No. 1.	No. 2.	No. 3.	No. 4.	No. 5.	No. 6.	No. 7.	No. 8.	No. 9.	No. 10.	No. 11.	No. 12.	No. 13.	
1861	\$4 67	Par.	\$4 67	Free.	\$4 67	\$3 44	\$3 44	\$3 39	\$3 39	204,457	890,588	Profit.	.....	Beginning with the average prices of 1861 for Nova Scotia coal, viz: \$4 67, we may assume that there was then a profit.
1862	5 60	13 +	5 29	Free.	5 29	4 23	3 73	4 14	3 65	192,612	1,291,924	\$0 31	.....	Consumer paid premium and 31 cents more.
1863	7 40	45	6 77	Free.	6 77	5 57	3 84	6 06	4 18	282,774	1,656,832	63	.....	Consumer paid premium and 63 cents more.
1864	10 40	102 +	9 45	Free.	9 45	6 84	3 38	8 39	4 12	317,504	1,711,798	95	.....	Consumer paid premium and 95 cents more.
1865	9 60	57	7 33	Free.	7 33	7 57	4 82	7 86	5 00	465,194	1,989,247	2 27	.....	Consumer paid premium and \$2 27 more.
1866	8 54	40 -	6 52	\$1 75	8 27	5 94	4 25	5 80	4 15	404,254	2,482,932	27	\$1 75	Duty paid by producer out of his profits. The consumer gets coal \$1 06 cheaper per ton. The price covers premium, duty, and 27 cents more. The producer is reduced to his profit of 1861, and 6 cents less which he pays as duty.
1867	8 10	38 -	6 44	1 72	8 16	4 97	3 59	4 37	3 16	338,492	2,788,103	.....	1 72	The producer is reduced to his profit of 1861, and 10 cents less which he pays as duty.
1868	8 16	40 -	6 51	1 75	8 26	4 71	3 36	3 86	2 75	251,949	3,308,655	.....	1 75	The producer is reduced to his profit of 1861, and 27 cents less which he pays as duty.
1869	7 78	36	6 35	1 70	8 05	4 97	3 65	5 31	3 90	287,745	4,233,980	.....	1 70	The producer is reduced to his profit of 1861, and 27 cents less which he pays as duty.
1870	6 00	15	5 37	1 44	6 81	4 60	4 00	4 50	3 91	.....	.....	.....	1 44	The producer is paying more than half the duty.

The foregoing table shows that Nova Scotia coal rose steadily from 1861 to 1864, receding but slightly in 1865, and that the consumer not only paid the premium but also a regularly increasing profit to the owners above the prices of 1861. The average prices of this coal in 1862, 1863, and 1864 disclose its constantly increasing power in our markets, enabling the producers to increase their profits by more than thirty cents per ton each year, and they were so strong in 1865 that the very great decline in gold during that year was of slight benefit to the consumers, the profit realized upon it by the producers amounting to the sum of \$2 27 per ton above what they made in 1861, and exceeding by fifty-two cents the currency duty imposed the next year.

The year 1866, in which the duty took effect, was the turning point, and the profits in foreign coal have as steadily declined since then as they had steadily risen previous to that time. The downward tendency of prices since the duty was payable has been more rapid than the decline of the gold premium, which fact is sufficient evidence that the tariff has not increased the cost to the consumer, and that he does not pay the duty in the sense in which it is alleged by Mr. Wells.

The shipments of American bituminous coal to the Atlantic seaboard in 1866 exceeded the shipments of 1865 almost 500,000 tons, being nearly one-fifth greater than that year's entire import of Nova Scotia coal, and almost three times the sea-board consumption of domestic coal in 1861. Owing to this remarkable increase in the home production of bituminous coal, under the stimulus of the duty, the foreign article experienced a wholesome check, and its producers were obliged to divide their enormous profits with the treasury of the United States.

That the consumer paid the duty when it was first imposed cannot be questioned, but that his coal was therefore enhanced in price we have reason to deny. He paid it into the treasury of the United States, instead of giving it to the owners of foreign coal, who have manifested the determination to get the highest possible price for their product, and would have been able in 1866 and 1867, had coal been free, to pocket a sum equal to the duty, or to use it to break down the market at pleasure, and harass and ruin the producers of American coal. Since then the foreign operator has lost his undisputed control of the market, and has been obliged to pay a constantly increasing portion of the duty out of his anti-war profits. He will soon be compelled to pay the whole of the duty out of these profits, and can well afford to do it.

It is natural that the wards of the Commissioner should be exceedingly desirous of controlling, at will, the American market, and they doubtless remember, with much regret, their immense gains prior to the imposition of the duty, especially in the year 1865, yet they are now reaping such profits as should content them. It is somewhat singular that Mr. Wells, who has manifested surprising zeal in hunting out and holding up to public reprobation any American industry which he imagines to have been culpably prosperous and profitable, should have

made no inquiry into the gains of the Nova Scotia coal companies, whose cause he advocates with such earnestness. His report gives no light upon this subject; but from reliable statements of mining operations your committee have learned that the cost of mining and transporting Pictou coal to the vessel, and all charges and expenses accruing on and about the same, cannot be computed at more than eighty cents per 2,240 pounds. The royalty payable to the province is ten cents, making the total cost to the owners ninety cents per ton, or, allowing a margin of ten cents, it would cost *one dollar a ton*. Taking the average price at Boston during the year 1869, which was \$7 78 per ton, and deducting therefrom the duty, and freights estimated at \$3 per ton, there would be a net profit of about \$1 80 per ton, or more profit than the average selling price of American bituminous coal at the pit's mouth. Evidence of the grasping spirit of these operators in foreign coal is disclosed by the fact, that in the winter of 1864-'65, *when there was no duty on coal*, they actually put up the price of their coal in Boston harbor, by the cargo, to \$15 50 a ton.

Surely, men who do not hesitate to reap such exorbitant profits as these from the pockets of American consumers may well be asked to pay a part of the taxes from which our own citizens are not exempt. Especially are they not entitled to have an elaborate plea for their benefit inserted in an official document emanating from an officer of our government, whose first duty it is to "inquire into all the sources of national revenue, and the best methods of *collecting* the revenue"—not the best methods of *abolishing* it for the advantage of foreign producers, as the Commissioner suggests.

The foregoing currency table has stated the facts and argument in one form, as we think fairly, but to refute most clearly the assertion of the Commissioner that "protection to coal means the enhancement of its price by a duty," the following brief statement of gold prices of Nova Scotia coal is here inserted:

Year.	Average prices of Nova Scotia coal in Boston, in gold.	Gold duty.	Increase of gold price year by year when free.	Fall in gold price year by year un- der the duty.	Total rise in price, when free, in gold.	Total fall in price under the duty, in gold.
1861.....	4.67	Free.	.....	.....	.....	.....
1862.....	4.95	Free.	.28	.....	.....	.....
1863.....	5.10	Free.	.15	.....	.....	.....
1864.....	5.15	Free.	.05	.....	.....	.....
1865.....	6.12	Free.	.97	.....	1.45	.....
1866.....	6.11	1.25	.....	.01	.....	.....
1867.....	5.87	1.25	.....	.24	.....	.....
1868.....	5.83	1.25	.....	.04	.....	.....
1869.....	5.72	1.25	.....	.11	.....	.40
1870.....	5.22	1.25	.....	.50	.....	.90

The great benefit of the coal duty is seen in its influence upon the production and prices of American bituminous coal. This averaged by the cargo, at Baltimore, \$1 63 a ton less in the duty year of 1866 than in the free year of 1865, and dropped almost a dollar more in 1867, since which time it has been remarkably steady at the average currency price, for three years, of \$4 88 per ton. It is with this coal (the Cumberland) that Nova Scotia coal comes most directly in competition; and, according to the theories of the Commissioner, its price should have been increased by the whole amount of the duty; but the very contrary of this is the case. Gold fell, it is true, but coal fell faster and farther, and it continued to fall when gold took a turn and went up again. Its average cost, as above stated, during three years past, reduced to gold, has been \$3 52 per ton, being 8 cents higher than the price in 1861, and 19 cents per ton less than the average of five years preceding the war.

Anthracite coal is not directly affected by foreign competition, yet it has ruled lower since the duty took effect, and quite low enough—its average price, delivered in Philadelphia, during three years past, having been \$3 26 in gold, or 13 cents per ton cheaper than it was in 1861, and 21 cents cheaper than the average of five years before the war.

The allegations of the Commissioner, that the coal duty has caused a loss of force, and has starved the steam laborer on whom we depend for work, are refuted by a comparison of our total coal imports from all countries prior to and during the duty years with the amount of American bituminous coal used upon the sea-board alone since the tariff took effect:

Years.	Increase in coal imports from all sources.	Decrease in coal imports from all sources.	Increased shipments of American bituminous coal to sea-board.	Total increased receipts at sea-board, foreign and domestic.
	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>	<i>Tons.</i>
1866	11, 813	.....	493, 685	505, 498
1867 .....	.....	174, 788	305, 171	305, 171
1868 .....	.....	125, 177	520, 552	520, 552
1869	27, 438	.....	925, 325	952, 763
Total decrease .....	.....	299, 965	.....	.....
Total increase .....	.....	.....	.....	2, 283, 984
Net increase .....	.....	.....	.....	1, 984, 019

Briefly, it appears that since the imposition of the duty, year by year, the losses of foreign coal amount to 299,965 tons; the gains of foreign and domestic bituminous at the sea-board amount, year by year, to 2,283,984 tons, the net increase being much greater than the total import of coal from all sources during three years prior to the imposition of the duty, and greater than the total imports of the five years prior to the war. We might show that the absolute gain is much greater if the

largest consumption of any year prior to 1866 is taken as a standard of comparison, for the yearly gains would thus be fairly compounded and vastly increase the total; but it is enough for our purposes to ask the Commissioner how the increased consumption of two million tons of coal on the sea-board has resulted in loss of power or starved the laborer on whom we depend for work? In this, as in other matters, Mr. Wells shows great fondness for a fine phrase, and little precision of statement or accuracy of learning.

LUMBER.

On page 88 of the report under consideration the Commissioner makes the following statement concerning one of the leading industries of the Eastern and Northwestern States:

Lumber.—The following table shows the advance which has taken place in the price per thousand feet of mixed lumber, by the cargo, in Chicago, from 1861 to 1868, inclusive:

	Mean of daily averages.
Year ended December 31, 1861.....	\$6 50 per M feet.
March 31, 1866.....	14 80 per M feet.
March 31, 1867.....	17 70 per M feet.
March 31, 1868.....	15 10 per M feet.

On the following page this table is referred to, to “illustrate the effect of the imposition of the tariff on prices,” as follows:

“Thus the existing duty of twenty per cent. on lumber became operative on lumber imported from the British Possessions (our only foreign source of supply) by the expiration of the reciprocity treaty in the spring of 1866. The subsequent advance in prices in Chicago was from \$14 80 per thousand feet in 1865-’66, to \$17 70 in 1866-’67.

* * * As the prices paid for lumber, furthermore, have been as a rule higher in Canada since the expiration of the reciprocity treaty and the imposition of the twenty per cent. duty, while the sales have been larger, it is evident that the duty falls *wholly upon the American consumer.*”

As the Commissioner does not give the names of practical lumbermen as authority for his figures above cited, your committee have submitted them to the examination of the highest authority in Chicago in the lumber trade, W. D. Houghteling, esq., President of the Lumbermen’s Exchange of that city, and from him have received the following detailed statement:

Receipts of lumber, lath, and shingles manufactured in the United States and received at the port of Chicago during the last seven years.

Year.	Lumber.	Lath.	Shingles.
1863.....	384, 932, 000	40, 747, 000	152, 344, 000
1864.....	467, 594, 000	60, 385, 000	133, 360, 000
1865.....	636, 425, 000	63, 375, 000	297, 159, 000
1866.....	712, 741, 000	122, 167, 000	391, 858, 000
1867.....	837, 868, 000	145, 483, 000	481, 356, 000
1868.....	977, 968, 000	145, 346, 000	537, 876, 000
1869.....	985, 931, 000	119, 329, 000	673, 166, 000

Receipts of lumber, lath, and shingle manufactured in Canada and received at the Port of Chicago, for the last seven years.

Year.	Lumber.	Lath.	Shingles.
1863.....	4, 068, 000	853, 000	71, 000
1864.....	6, 286, 000	1, 715, 000	None.
1865.....	10, 895, 000	910, 000	None.
1866.....	8, 364, 000	526, 000	214, 000
1867.....	9, 766, 000	119, 000	99, 000
1868.....	8, 478, 000	41, 000	None.
1869.....	5, 903, 000	None.	None.

Total amount of lumber received, and the average price obtained per 1,000 feet, at Chicago, for the last seven years.

Year.	Total feet.	Average price.
1863.....	389, 000, 000	\$12 75 per 1,000 feet.
1864.....	473, 880, 000	17 30 " " "
1865.....	647, 320, 000	13 85 " " "
1866.....	721, 105, 000	16 80 " " "
1867.....	847, 634, 000	14 15 " " "
1868.....	986, 446, 000	13 60 " " "
1869.....	991, 834, 000	11 30 " " "

The above receipts are taken from the custom-house books, and the average price is obtained by averaging the daily sales afloat as reported daily for the last seven years.

CHICAGO, April 13, 1870.

W. D. HOUGHTELING,
President of Lumbermen's Exchange.

Accompanying the foregoing statement was the following letter, addressed to a member of the committee:

CHICAGO, April 13, 1870.

DEAR SIR: Your favor of 7th instant came duly to hand. Inclosed I hand you a statement showing the total amount of lumber received at this port for seven years, and the average price at which it has been sold afloat each year.

You will observe that after the close of the war in 1865, it dropped \$3 45 per M from the price of 1864. The year 1866 was one of high prices in all commodities and products. The soldiers had been paid off; had got home; were using their money and again becoming producers, which infused new life and activity into everything. This year lumber, like everything else, advanced. But since 1866 there has been a yearly falling off, and a strong one—the whole decline from 1866 to 1869 being, as you will notice, \$5 50 per M feet. This season prices will be less. The few cargoes that have thus far arrived have sold at from \$1 to \$2 less than the opening price of last year.

I do not think lumber will average over \$10 this season. Several millions have been contracted at \$10 for future delivery. To throw lumber into our markets free, manufactured where labor is, from the condition of things, cheap, must prove ruinous to the men who have millions invested in this business.

Yours, respectfully,

W. D. HOUGHTELING,
President of Lumbermen's Exchange.

Hon. PHILETUS SAWYER, *Washington, D. C.*

The striking fact is presented in Mr. Houghteling's letter and accompanying statistics that the price of lumber has rapidly *declined* in

Chicago since 1866, notwithstanding the imposition of a duty of twenty per cent. on Canadian lumber. The Commissioner endeavors to create a contrary impression by referring to the quotations in 1866-'67. He even ignores his own previously quoted price of mixed lumber at Chicago in March, 1868, when, according to his own figures, it had fallen \$2 60 per thousand since 1866-'67. But why did the Commissioner *end* his table of prices with the quotations for March, 1868? His report is dated December 17, 1869, twenty-one months later, and it certainly was possible for him to procure the Chicago lumber quotations up to March, 1869, one year later than those given in his table. Had he done this, the truth would have been found to be even more damaging to his comments than his own quotations for March, 1868, for it would have shown a decline in price to a point as low as in 1865, when lumber was admitted free of duty. Mr. Houghteling brings the quotations down to the present year, and they show that lumber is now selling in Chicago, after making due allowance for the premium on gold, at prices as low as prevailed in 1863, 1864, and 1865—all *free* years. With such facts as those we have given, either before him or within his reach, your committee deem the Commissioner's deduction, that "the duty falls wholly upon the American consumer," at once illogical and unjustifiable. In this conclusion they are sustained by the additional fact, derived from Mr. Houghteling's statistics, that our annual imports of lumber from Canada into Chicago, either under the terms of the reciprocity treaty or under the duty of twenty per cent., have been the merest trifle when compared with the home product. To repeal the duty now imposed on foreign lumber would benefit no one but the foreign producer, while the Government would have to look elsewhere for the revenue now derived from that source.

In the foregoing remarks the committee have had under consideration only so much of the Commissioner's statements as relates to the prices of lumber in Chicago, his argument being mainly deduced therefrom. But the committee are not without other evidence of the fallacy of the Commissioner's reasoning and the utter lack of candor in his dealing with simple facts. For example, in the table he gives of the cost of lumber at Albany, he entirely omits the rates prevailing in that market in 1869, thus repeating the offensive and always hazardous experiment of suppressing the truth, as was done in the table of Chicago prices.

The committee feel justified in quoting the following preamble and resolution adopted at a large meeting of the citizens of Oshkosh, Wisconsin, on the 12th of April last, at which Judge Washburn presided and of which Rev. F. B. Norton was secretary.

Whereas, Commissioner Wells has asserted that the manufacturers of lumber have raised the price far beyond the average increase in the price of labor and other commodities, that the tariff of twenty per cent. has been a direct tax upon the consumer to that amount, and that its repeal would cheapen lumber to the amount of \$16,000,000; therefore,

Resolved, That so far as this market is concerned, his statements are false in every

point, and tend to bring into disrepute a large class of manufacturers who claim equal honesty with the officers of the government, and who have been selling a large portion of their products for the past year below the cost of production.

THE COST OF IRON.

On page 81 of the report the Commissioner makes the following statements concerning one of the leading industries of the whole country:

The average expenditure requisite to produce a ton of pig iron in the United States at the present time, including a liberal interest upon the capital invested and a fair allowance for repairs and incidentals, may be fairly estimated at from \$24 to \$26, currency; and as confirmatory of this estimate, the Commissioner submits the following evidence: In a letter under date of September 2, 1869, Mr. George T. Lewis, of Clarksville Tennessee, who is indorsed as one of the most intelligent and experienced iron manufacturers of the Southwest, says: On the line of the Nashville and Chattanooga railroad, pig iron can be made *and delivered* in Nashville at a cost of \$19 per ton, currency. In the city of Nashville itself Mr. Lewis states the present cost, including interest on capital and incidentals, at \$22 60, currency, per ton. At Carondelet, Missouri, Mr. S. Waterhouse, of St. Louis, in a letter under date of February 20, 1869, states the cost of making pig iron, including an allowance of \$1 50 per ton for interest, taxes, and insurance, at \$25, currency, per ton; and adds, this "is not an estimate, but an exhibit copied from the books of the company." The distance of Carondelet from St. Louis, a central market, is six and a quarter miles. An estimate furnished by one of the largest iron-works at Pittsburg, Pennsylvania, gives \$27 98 as the cost per ton when ore of sixty-six per cent. is used, and an allowance made of eighty cents per ton for interest and twenty-five cents per ton for repairs and incidentals. In the valley of the Cumberland, and in the anthracite districts of Pennsylvania, and at Scranton, the Commissioner is informed by those conversant with the business that the average cost of manufacture in the case of furnaces favorably situated, under good management, and with coal at ordinary prices, is not in excess of from \$24 to \$26 per ton, and in some instances is much less than this figure. These estimates, furthermore, it should be observed, include a liberal interest on the capital invested, which is turned on an average from two to three times per annum.

After submitting these statements, the Commissioner adds the following comments:

The average price of all the varieties of pig iron in the principal markets of the United States for the past year is estimated by the secretary of the American Iron and Steel Association at \$35 25 per net ton. Other recognized authorities report a higher average to the Commissioner, viz: from \$36 to \$36 50 and \$37 50 as a fair average in New York City. The average value at the furnaces of the Lehigh Valley during the past year has been about \$38 for No. 1, \$36 for No. 2, and \$34 for No. 3. It is therefore obvious that, adopting the minimum market price, and allowing for the cost of one hundred miles of railroad transportation, the price of pig iron to the American consumers has been unnecessarily enhanced during the past year to an average of *from eight to ten dollars per ton*.

The committee find that here, as in other parts of the report, the Commissioner is grievously in error, and that, too, without the shadow of excuse. He accepts as established facts statements not *proved* to be true, and not entitled, from the character of the sources whence they emanate, to be seriously considered *without* verification. It was a duty the Commissioner owed to himself and the country, that he should not present conclusions based upon evidence that did not emanate from sources entitled to the highest credit; yet he is constantly

doing this, when it was entirely within his power to obtain complete and authentic information upon every subject referred to in his report. In his exhibit of the cost of manufacturing pig iron, he is singularly unfortunate, as your committee will proceed to show from abundant material in their possession.

"From \$24 to \$26, currency," is stated by the Commissioner to be the "average expenditure requisite to produce a ton of pig iron in the United States." This means that some pig iron can be and is produced at *less* rates than those here quoted, which may be true of a few favored localities, or of a few iron districts remote from market, like one in Western North Carolina of which your committee has heard, where negro labor, through lack of other employment, and from other well-known causes, can be obtained for from forty to sixty cents a day—*starvation wages*. Iron can there be produced at a cost of \$18 a ton, but the cost of transporting it to market is almost as much more. Exceptions, however, never prove a rule, the old maxim to the contrary notwithstanding; and the Commissioner, instead of seeking for instances of exceptional cheapness, should have directed his inquiries to those localities where most of the iron of the country is made, and where the labor bestowed upon its manufacture is paid a fair price.

He should also, in giving the assumed cost of producing a ton of pig iron at different localities, have stated what *kind* of iron he referred to in each instance, since iron differs in quality as much as many other articles of manufacture; but this he does not do. An officer of the British revenue service would not have the hardihood to omit a classification so necessary and one that everybody would certainly expect, nor would he be allowed to do so if ever so recklessly inclined.

The committee now proceed to an examination of the authorities and figures cited by the Commissioner. He quotes Mr. George T. Lewis as authority for the statement that "pig iron can be made and delivered in Nashville at a cost of \$19 per ton," and says he "is indorsed as one of the most intelligent and experienced iron manufacturers of the Southwest." The committee find, upon investigation, that neither the figures nor the reputation as an iron manufacturer of Mr. Lewis are entitled to the consideration the Commissioner has accorded to them. Mr. Lewis *has* had experience as an iron manufacturer, but not even his warmest eulogist will assert that he has been a *successful* manufacturer. The committee find that he has been the very reverse of successful. Next, they find that, when Mr. Lewis made the estimate which the Commissioner quotes so prominently, he had purchased, or was about to purchase, some iron and coal lands on or near the Nashville and Chattanooga railroad, and greatly desired to secure the co-operation of capitalists in their development. Of course he made as favorable an estimate as possible, *and advertised it in the newspapers*. Even then, however, it is manifest that he referred to *stone-coal iron*, and your committee would not do him the injustice to suppose that he meant to create the impres-

sion that *charcoal iron* can be produced on the line of the Nashville and Chattanooga railroad at \$19 a ton. Nor do they believe that he conceived it possible to make even stone-coal iron in any other locality than the one he was specially interested in commending to the attention of capitalists as cheaply as \$19 a ton, including freight to Nashville.

But are his estimates—for they are nothing else—*reliable*? Can pig iron of any quality whatever be made in Tennessee *and delivered* at Nashville for \$19 a ton? On this point, the testimony of *successful* manufacturers of pig iron in that State is the only evidence that should be received, especially when it is opposed only by that of a gentleman not engaged in iron manufacture. Messrs. Hillman, Brother & Sons, iron manufacturers of long experience in Tennessee, and gentlemen of high standing for integrity and business capacity, under date of Nashville, January 7, 1870, write as follows. They speak of charcoal iron.

We have been running but one furnace since the war, and, as we have always done, have been careful to know what it has cost us to make pig iron. This furnace has the ore almost at its mouth, and a railroad to the river, two and a half miles. Our pig iron on the bank of the Cumberland River costs us no one year less than from \$33 to \$35. This is reliable, and we do not believe there is any establishment in this whole section that is making pig iron for less, or that has any more favorable location.

This statement is supported by the testimony of another iron firm of high standing in Nashville. Their letter is of so important a character that your committee give it entire:

NASHVILLE, January 26, 1870.

DEAR SIR: We are in receipt of your favor of late date requesting a statement of the actual cost of production per ton of cold blast charcoal pig metal in this section. After careful examination of the accounts kept at the furnace of the various expenses connected with the manufacture of pig metal, and transportation to the shipping point on the river-bank, four miles from the furnace, we estimate the cost per ton at \$35 65. This does not include interest on capital invested, wear and tear, &c. Our statement is based upon actual operations, while that of Mr. Lewis, as it appears in Commissioner Wells' report, is on *estimates*, and those, too, made up for a field in which he has no experience.

Mr. Lewis's practical knowledge of the iron business was all acquired at our Cumberland Iron Works, and a furnace near by. In the year 1860 Mr. Lewis was manager of the Cumberland Iron Works, and in that year it cost us about \$30 per ton to place a ton of metal on the river. We were running two furnaces, a forge, and rolling-mill, with an annual production of \$300,000 value. Our business was well organized on a basis that had the advantage of over thirty years' experience; we owned four hundred and twenty-five negroes, many of them skilled mechanics; supplies were lower, and labor cheaper, and vastly more efficient than at present, while the coalings and ore banks, and the coal and ore teams were worked seven days in the week, thus lessening in a still greater degree every item of consumption and management. With all these advantages, and on a larger production than we have been able to achieve since the war, the cost was about thirty dollars per ton of metal under Mr. Lewis's management. Since then, Mr. Lewis has been engaged in railroading and mining for coal, but has had, we think, no connection with the iron business. We protest that his estimates should not receive currency, much less be adopted as authorities in a report of such importance as that of Commissioner Wells, to the injury of one of the greatest producing interests of the country.

Very respectfully,

WOODS, YEATMAN & CO.

The president of the La Grange Iron Works, Stewart County, Tennessee, which works embrace three furnaces, writes as follows :

LA GRANGE FURNACE, *January 8, 1870.*

DEAR SIR: In answer to yours as to the cost of pig iron in Tennessee, I will say that I think we have as many advantages as are in Tennessee, and probably the best improved furnaces, and it costs us to make charcoal iron, delivered at our landing on the Tennessee River, \$29 93 per ton, and this does not include anything for interest on capital, nor the depreciation of property, and at each furnace we use at least three hundred acres of timber per year.

I am yours, respectfully,

STEPHEN S. GLIDDEN,

President La Grange Iron Works.

The committee come next to the testimony of Mr. Waterhouse, of St. Louis, Missouri, as produced by the Commissioner. Not crediting *his* statements any more than those of Mr. Lewis, they inquired, first, into the legitimacy of his claim to be considered an authority in iron matters; and, secondly, into the correctness of the statements furnished by him to the Commissioner. Relative to these subjects of inquiry, Jules Vallé, esq., vice-president of the Iron Mountain Company, writes as follows. He speaks of stone-coal iron :

OFFICE IRON MOUNTAIN COMPANY,

No. 603 North Second street, St. Louis, December 30, 1869.

DEAR SIR: I am this morning in receipt of yours of the 27th instant, which is carefully noted. Professor Waterhouse, who, I believe, is employed in some of our city colleges, is only a theoretical iron man, never having had, I believe, any practical knowledge of the business. He possibly obtained his data from some of the owners of the Carondelet furnace, and, basing these on a week's run when everything was running smoothly, they may have been correct. This much, however, I will say in regard to the Kingsland furnaces at same point, in which we are deeply interested, and which have now been in blast some six months, and managed with the greatest care and economy—that is, that the cost of the pig iron made there comes up fully to \$28 75 a ton; and, taking a whole blast through, I doubt very much if it can be produced for a cent less. The ore costs \$5 50 per ton of 2,240 pounds; the coal \$4 35 per ton of 2,000 pounds, delivered in barges at the furnace landing; to which must be added the cost of unloading, hauling, and waste, which is fully twenty-five per cent.; lime rock seventy cents per ton; labor, &c., is fully \$5 per ton; and to which interest on capital, insurance, taxes, &c., must be added. These figures will apply as well to the Carondelet furnace, as they pay the same prices for ore, coal, coke, &c., and have no advantages that I can see over the Kingsland company, excepting possibly in the item of "interest."

Indeed, taking in the *risk* attending sales, moving of the iron from the furnace to the city, weighing, repairing, &c., and \$30 per ton is as low as any one, I think, could figure it down, and even *at that price* it is only a matter of time how soon those now engaged in it will be driven to some other business to make an honest living. We ourselves will certainly have to do so if our free trade friends and such men as Commissioner Wells carry the day and force their *visionary* views on the country.

Yours, truly,

JULES VALLÉ.

Under date of January 12, 1870, B. W. Lewis, jr., esq., president of the Carondelet Iron Works, forwards to the committee the following statement, for the accuracy of which he vouches :

ST. LOUIS, *December 31, 1869.*

EDITORS MISSOURI DEMOCRAT: In reading the report of Mr. David A. Wells, Special

Commissioner of Internal Revenue, we find he refers to the statement of Professor Waterhouse, regarding the cost of making pig iron at the Carondelet Iron Works, and as the information upon which Professor Waterhouse based his statement was furnished by us, we have since ascertained that we were led into a number of errors, which we desire to correct, so that the public may not continue to entertain erroneous opinions upon a subject—the actual cost of making pig iron—of so much importance to our city and State.

When we gave the above-mentioned statement to Professor Waterhouse, asking him not to use our name specially in connection with it, (because it was for the most part based on estimates,) our furnace had been in blast but a short period, and we based the statement upon the data furnished in our weekly reports, which showed the quantity of iron produced each week, with our estimate of the cost of ore, fuel, labor, expense, &c. Subsequently, when the furnace had made what is regarded as a successful run of ten months, and a correct statement was made from our books, we find the actual cost of making a ton of pig iron to be largely in excess of \$25, the figures given Professor W., as will be seen by the statement appended below of the run of the furnace from September 1, 1868, to July 1, 1869, during which period forty-four hundred tons of metal were made, at a cost of \$32 05 per ton. This difference between the weekly reports, which contain several estimated items, and the statement of ten months' business, is caused by the large loss in the coal by frequent handlings and constant exposure, as well as by losses in weight and failure on the part of the ore always to yield the full proportion of metal given Professor W., and numerous other causes developed by the results of ten months' work, viz:

Cash paid for fuel used.....	\$55,520
Cash paid for ore used	35,640
Cash paid for wages.....	29,972
Cash paid for repairs and expenses	19,894
	141,026

Total product for ten months, 4,400 tons; cost \$32 05 per ton.

CHAS. A. McNAIR,

Secretary Carondelet Iron Works.

The committee submit the foregoing statements as conclusive answers to those of Mr. George T. Lewis and Mr. S. Waterhouse. The evidence quoted fully establishes these conclusions: first, that the Commissioner was not justified in quoting these gentlemen as *authorities* in iron manufacture; and, second, that their testimony is not reliable.

The Commissioner quotes next the cost of pig iron at Pittsburg at \$27 98, and then passes to the anthracite districts of Pennsylvania, where, he says, at "furnaces favorably situated, under good management," the cost of making iron is "from \$24 to \$26 per ton, and in some instances is much less than this figure." The committee, again discrediting the Commissioner's figures, which are not substantiated by any authority whatever, sought for correct information from those actually engaged in the manufacture of iron in the districts of Pennsylvania referred to, and found it in the following memorial to Congress, presented in the month of January last:

Your memorialists, representing thirty-seven furnaces in the Lehigh, Schuylkill and Susquehanna regions, producing annually in the aggregate over two hundred and seventy thousand tons of pig iron, respectfully express their belief, based upon per-

sonal knowledge, that the above statement of the Commissioner will be found upon a critical examination erroneous, and if accepted by Congress a most dangerous guide to legislation. Upon the authority of our personal knowledge we beg leave to state that the average cost per ton at the furnaces we represent, *exclusive of any interest on capital and the expenses of moving product from the furnaces*, in the year 1868, was \$29 16 $\frac{1}{2}$, and in the first six months of 1869, \$29 63, while we believe the cost for the last six months will not materially vary therefrom. These prices being the average cost of the product, embracing the three qualities of iron, viz: Nos. 1, 2, and 3. We respectfully express the conviction that the foregoing average cost of the product of the furnaces we represent is below the average cost of the product of American furnaces collectively; it being our belief that we represent interests having important economic advantages.

LEHIGH CRANE IRON COMPANY,
Catasauqua, Lehigh County, Pennsylvania.

ALLENTOWN IRON COMPANY,
Allentown, Lehigh County, Pennsylvania.

SAUCON IRON COMPANY,
Hellertown, Lehigh County, Pennsylvania.

ANDOVER IRON COMPANY,
Phillipsburg, New Jersey.

MONTGOMERY IRON COMPANY,
Montgomery County, Pennsylvania.

J. B. MOORHEAD & CO.,
Montgomery County, Pennsylvania.

ROBERTS IRON COMPANY,
Allentown, Lehigh County, Pennsylvania.

REPPLIER, LANIGAN & CO.,
Montgomery County, Pennsylvania.

CHESTNUT HILL IRON ORE COMPANY,
Columbia, Lancaster County, Pennsylvania.

E. HALDEMAN & CO.,
Chickies Station, Lancaster County, Pennsylvania.

C. B. GRUBB & SON,
Columbia, Lancaster County, Pennsylvania.

C. S. KAUFFMAN,
Columbia, Lancaster County, Pennsylvania.

ATKINS BROTHERS,
Pottsville, Montgomery County, Pennsylvania.

CARBON IRON COMPANY,
Parryville, Carbon County, Pennsylvania.

HENRY S. ECKERT,
Reading, Pennsylvania.

G. DAWSON COLEMAN,
Lebanon, Pennsylvania.

The men who unite in this statement are of unimpeachable character, and the establishments they represent fulfill the very conditions laid down by the Commissioner. They are "favorably situated" and "under good management." Most of their furnaces are large and of the most improved construction; ore and coal are abundant in their neighborhood; and they have created the means of bringing them cheaply together by means of railroads, tramways, iron bridges across deep, wide valleys, &c. If anthracite iron is or can be made cheap in this country, they can and do so make it. Yet they testify that it costs them \$29 63, or, from \$4 to

\$6 more than the Commissioner states. The committee are further informed that furnaces less favorably situated in the same section of Pennsylvania produce iron at a cost greatly exceeding that at which it is produced in the more favored localities named.

The committee have been furnished with a mass of corroborative testimony relating to the cost of manufacturing pig iron in sections of the country other than those referred to by the Commissioner. They give an abstract of some of this testimony as follows:

Wm. Watson, secretary of the Western Iron Co. at Harmony, Indiana, writes that in 1869 their product of pig iron cost \$29 a ton, and adds: "I am certain that there are no furnaces around here that are making it at a less cost." Messrs. Garlick & Collins, of Indianapolis, Indiana, say that the iron manufactured by them in 1869 cost \$29 83 a ton, and remark that to this sum "one dollar a ton ought to be added for repairs and incidentals." Proprietors of other furnaces in Indiana report the cost of making pig iron at a slight advance upon the above figures. In Ohio the cost is greater than in Indiana. In the Hanging Rock district the average cost is stated by Ex-Congressman H. S. Bundy, and other practical iron manufacturers, at \$34. A. B. Concell, treasurer of the Himrod Furnace Co., in the Mahoning Valley, says it costs the company \$30 53. In the Shenango Valley iron district of Pennsylvania, where every facility exists for the manufacture of pig iron, the average cost is stated at \$28 58. All these cost prices, it must be remembered, do not include interest on capital, freight to a market, commission on sales, &c., which add considerably to the market value of pig iron, as will clearly appear by the following detailed statement of the cost in January last of manufacturing and marketing one ton of it in the great smelting region of the Mahoning Valley, Ohio:

3 tons coal delivered at furnace, including fuel for boilers, hot-blast, drying-furnace, "blowing in" screenings, &c., at \$3 25.....	\$9 75
1½ tons Lake Superior ore, delivered, \$10 18 per ton.....	15 27
½ ton limestone, at \$1 30 per ton.....	65
Labor, including salaries	3 47
Repair and expense account	1 39
Total	30 53
Freight to Pittsburg	\$2 00
Weighing and unloading, per ton	17
Commission on selling, 2½ per cent. on \$36 24.....	91
Interest, four months on \$36 24, this being the four months' price.....	1 09
Internal revenue tax on sales, \$2 upon \$1,000.....	07
	4 24
Total expense when sold.....	34 77
• Average Pittsburg price for three weeks past, as reported in the Pittsburg papers, actual sales.....	36 24
Amount left to pay interest on capital, risk and contingencies	1 47

To the foregoing the committee deem it not improper to append the

following letter just received from an eminent iron manufacturer, whose office is at Rome, Georgia. It has reference to an official communication, published recently by Commissioner Wells, in the public prints, in reference to the cost of making pig iron, and is therefore pertinent to this inquiry.

CORNWALL IRON WORKS COMPANY,

Rome, Georgia, April 11, 1870.

DEAR SIR: I notice in Commissioner Wells' reply to several gentlemen of Pennsylvania, on the cost of the manufacture of pig iron, a statement from Major L. Thomas-ton, former superintendent of our works, of three weeks' production, and the cost of it in October, 1869. According to his statements he makes it cost about twenty dollars per ton. Unfortunately, he has estimated the cost of the ore at too low a figure, and underestimated the consumption of charcoal per ton, and made no allowance for wear of furnace, machinery, putting in new hearths and linings, and many other expenses. Besides, he gives the result of the three weeks' operations, which were the most productive and economical in his administration. We find that we produced from fifteen hundred to sixteen hundred tons pig iron in 1869, which cost us at the works, on an average, forty dollars per ton. I give you this statement, as it may be of use to you should you wish to correct Mr. Wells.

It is true some furnaces can produce iron much cheaper than others, as they have more advantages in location, cheap iron ore and coal, and a very successful blast; but it is very unfair to presume that, because three or four furnaces can produce iron cheaply, *all* can do so.

Very respectfully,

SAM'L NOBLE,

Secretary and Treasurer Cornwall Iron Company.

Hon. D. J. MORRELL,

Washington, D. C.

The committee feel constrained to add the expression of the opinion that the Commissioner has not, in his investigation of the cost of manufacturing pig iron, consulted the authorities which he should have consulted, while he *has* manifested an undue willingness to accept as evidence the mere *estimates* of men who have either wild Tennessee lands to sell, or who have never been initiated into the practical workings of the iron business. He appears to have used only such testimony as would have had least weight in a court of justice, and rejected all evidence which would have been accepted as important and conclusive.

What is yet more remarkable is the fact that the testimony to which he gives the most prominence was derived by him, not through the medium of direct communications with the parties furnishing it, but from *rose-colored advertisements*, written to subserve personal and local interests. Mr. Lewis's statements were given to the world in a letter to a newspaper, while those of Mr. Waterhouse first saw the light in the pages of a pamphlet published for the purpose of attracting immigration and capital to St. Louis and Missouri. Your committee are at a loss to comprehend how the Commissioner can reconcile such trifling with the confidence, and such contempt for the intelligence of the country, with the responsible trusts committed to him by his high office.

FREIGHTS ON PIG IRON—DO INLAND FREIGHTS ON IMPORTED GOODS
AFFORD INCIDENTAL PROTECTION TO THE HOME MANUFACTURER?

In further illustration of the unreliability of the Commissioner's statements concerning pig iron, your committee call attention to the following passage to be found on page 83 of the report:

It is also to be noted that, if the duty on pig iron were entirely removed, the American producer in the interior would still enjoy a protection in the cost of transportation *to the extent of at least \$1 50 per ton for every one hundred miles that intervene between the place of production and a port of entry, which circumstance renders the transport of a single pound of foreign pig iron to any considerable distance into the interior a matter of ordinary commercial impossibility.*

The committee, doubting the correctness of these statements, sought information concerning them from practical men, whose high standing as gentlemen and business men in their respective communities is a sufficient guaranty of the entire reliability of the statements they make. In response to the committee's inquiries they write as follows:

From the Lewis Iron Company, St. Louis.

ST. LOUIS, March 11, 1870.

DEAR SIR: In answer to your note of the 8th, the information which you wish is as follows: During the past six months pig iron has been shipped from New Orleans and delivered at St. Louis at \$3 per ton. The rate is now \$4. It fluctuates between these points. We are informed that large quantities of pig iron are brought to New Orleans as ballast. The rate from the Cumberland River here by water is \$4 to \$5 per ton; from northern Alabama it is \$12 40 per ton; from Cincinnati it is \$4 by rail, and from New York by rail would be \$7 50 to \$8.

Very respectfully,

B. W. LEWIS, JR.

Hon. D. J. MORRELL,

Chairman Committee on Manufactures, Washington, D. C.

From A. B. Meeker of Chicago.

CHICAGO, March 14, 1870.

DEAR SIR: In reply to your letter of the 8th last, the freights on pig iron from seaboard ports to Chicago are as follows: Montreal to Chicago, *via* lakes and river, \$2 25 to \$2 50, gold, per ton of 2,240 pounds; New York to Chicago, *via* river, canal, and lakes, \$4 to \$5, currency, per ton of 2,240 pounds; New Orleans to St. Louis, *via* Mississippi River, \$4, currency, per ton of 2,240 pounds. The decline in gold will let foreign iron in on us very cheap when navigation opens, and we cannot stand a reduction in duty. Scotch pigs are being offered to arrive in May at \$22, gold, per ton, delivered here in bond.

I am, yours, truly,

A. B. MEEKER.

Hon. D. J. MORRELL,

Chairman Committee on Manufactures, Washington, D. C.

From the Western Transportation Company, New York.

NEW YORK, March 19, 1870.

DEAR SIR: In reply to your inquiry, in reference to freight on pig iron during the year 1869, I have to say, that the average rate from New York to enumerated ports,

via water route, was as follows: Toledo, Cleveland, and Detroit \$5 per gross ton; Chicago and Milwaukee \$5 50 and \$6. The railway competition, by the trunk lines, from the seaboard to the interior, was so sharp during the season of navigation of 1869 that pig iron was shipped at less than the above rates by *all-rail* routes, consequently the water route lost largely of tonnage.

Yours truly,

HUGH ALLEN.

Hon. D. J. MORRELL,

Chairman Committee on Manufactures, Washington, D. C.

Most of the foreign pig iron imported into this country comes by way of Montreal, New York, and New Orleans, all ports of entry. The shortest distances from these ports to leading points of consumption in the interior have been ascertained from official sources, and are given below, together with a correct calculation of the cost of transporting pig iron to these points, based upon Mr. Wells' statement of "\$1 50 per ton for every one hundred miles," which is placed in a parallel column with the true cost of transportation, as given in the letters above.

Places.	Distances.	Wells' false rates.	True rates.
	<i>Miles.</i>	<i>Per ton.</i>	<i>Per ton.</i>
Montreal to Chicago	760	\$11 40	\$2 60 to \$3 00
New York to Cleveland.....	572	8 58	5 00
New York to Detroit	750	11 25	5 00
New York to Toledo.....	684	10 26	5 00
New York to Chicago	890	13 35	5 00 to 6 00
New York to Milwaukee.....	984	14 76	5 00 to 6 00
New York to St. Louis.....	1,068	16 02	7 50 to 8 00
New Orleans to St. Louis	728	10 92	3 00 to 4 00

These figures are most damaging to Mr. Wells, but their full force will best be seen by comparing them with the figures in Mr. Lewis's letter relative to the cost of transporting pig iron from the furnaces in Tennessee and Alabama to St. Louis, which he states at from \$4 to \$5 a ton from the Cumberland River, and \$12 40 a ton from Alabama; in the first instance slightly exceeding the cost of transporting foreign iron from New Orleans to St. Louis, and in the second exceeding by almost one hundred per cent. the cost of transporting it from New York—in both instances fully covering the average cost of transportation from Europe to St. Louis. Instead, therefore, of the freight charges on pig iron from the principal ports of entry in this country and Canada to commercial centers in the interior being, as Mr. Wells alleges, a source of "protection" to the home manufacturer, it is clear that they afford no impediment whatever to the importation of the foreign-made article when it is brought into competition with the products of our own furnaces. And the same is true of freights on other articles of foreign and domestic manufacture.

The most valuable classes of imported goods are generally not subject to heavy freight charges, for they are of light weight; while heavy goods, such as railroad iron and pig iron, are carried long distances inland from ports of entry much cheaper than the same classes of freight are carried short distances between "the place of production" and a market. Every business man knows that the through-freight schedules are much lower proportionally than those for local freight. Iron, for instance, can be shipped more cheaply from New York to St. Louis and Chicago than from the interior of Pennsylvania, and the letter of Mr. Lewis shows that it costs more to carry pig iron from the Cumberland River to St. Louis than from New Orleans, and from Northern Alabama fully fifty per cent. more than from New York.

Mr. Wells' yet more sweeping statement, that these freight charges render "the transport of a single pound of foreign pig iron to any considerable distance into the interior a matter of ordinary *commercial impossibility*," is refuted by the statement in the letter of Mr. Meeker, of Chicago, above quoted, that "Scotch pigs are being offered to arrive in May at \$22 gold per ton [about \$25 currency] *delivered here* [at Chicago] in bond." It is also refuted by such advertisements as the following, which we clip from a St. Louis journal of recent date:

Garrett, McDowell & Co., commission merchants and dealers in *Scotch* and American pig iron, No. 707 North Second street, St. Louis, Missouri.

In the foregoing table the committee have given the *shortest* traveled distances between the points named, except that from Montreal to Chicago, which is an air line. These distances are all therefore in Mr. Wells' favor, and are not wholly just to the large number of our fellow-citizens whose interests are assailed by his false statements. A second letter from Mr. Meeker, dated March 21, 1870, exhibits the Commissioner in a light that is at once more just to the industries he has injured and more damaging to him as a public officer. Mr. Meeker, whose office is at 45 Dearborn street, Chicago, says:

It is 1,350 miles by water from Montreal to Chicago, which, on his [Mr. Wells'] basis of figuring, would make the freight \$20 25 per ton. The actual freight is \$2 25 gold, or \$2 50 currency; insurance, $\frac{1}{4}$ per cent., 20 cents; total, \$2 70. Difference against Wells, \$17 55 per ton.

From New Orleans to St. Louis is 1,251 miles, which, on his same basis, would be \$18 76 per ton. The actual freight is \$4; insurance, 20 cents; total, \$4 20. Difference against Wells, \$14 56.

This whole question of *freights*, your committee feel compelled to add, is one which Mr. Wells treats most unfairly throughout his entire report, and, as has been shown, with conspicuous disregard of facts easily procurable. In his advocacy of foreign in preference to home markets for the surplus products of American farms, he studiously ignores the fact that the freight on one bushel of wheat sent from one of our western States to a European market is never much less than the price of another bushel, and often exceeds it, thus requiring the farmer to sacrifice one bushel to make a foreign market for the other. But when he

comes to speak of shipments the other way—shipments of foreign goods from American “ports of entry” to points in the “interior,” behold with what impressive pomp the “cost of transportation” is paraded, and how graciously the information is extended that this cost is an efficient ally of “protection!” When freights tell against the theory which favors the building up of European workshops at the expense of American farmers and manufacturers, they are carefully hidden away out of sight; but when, by means such as have just been explained, they can be presented in a shape calculated to weaken the claims to public acceptance of the protective policy, they are brought forward with the utmost celerity.

STEEL.

In the Commissioner’s report, for the year 1867, he gave his views on steel as follows:

On steel much higher rates of duty than those recommended upon iron are submitted. Although these rates seem much higher, and are protested against by not a few American consumers of steel, yet the evidence presented to the Commissioner tends to establish the fact that if any less are granted, the development of a most important and desirable branch of domestic industry will, owing to the present currency derangement and the high price and scarcity of skilled labor, be arrested, if not entirely prostrated. This is claimed to be more especially true in regard to steel of the higher grades or qualities. It is also represented to the Commissioner, that since the introduction of the manufacture of these grades of steel in the United States, or since 1859, the price of foreign steel of similar qualities has been very considerably reduced through the effect of the American competition, and that the whole country in this way has gained more than sufficient to counterbalance the tax levied as a protection for the American steel manufacture, which has grown up under its influence.

It will be seen that he then held that the price of steel had been reduced by the competition of American and foreign manufacturers, and that this competition should be maintained by the protection of a tariff, but having meantime changed his views, he now proposes a *lower* duty, although, owing to the decline in gold, the position of American steel-makers is now *much less favorable* than it was in 1867.

We shall not here enlarge upon this point, but in order to show how widely the Commissioner’s present wish for lower duties upon steel differs from that of practical men, we insert the following memorial lately sent to the Finance Committee of the Senate, and to the Ways and Means Committee of the House, and signed by more than ninety officers and managers of leading railroads, in all parts of the country, from Boston to Charleston, Milwaukee, and St. Louis. These roads are large consumers of steel rails, yet they ask a duty of *two cents per pound* or \$44 80 per ton, on the imported rail, and say:

Immediately before the construction of the first steel-rail manufactory in this country, foreign makers charged \$150 per ton (equal then to \$225 currency) for steel rails. As American works were built, foreign skilled labor introduced, home labor instructed, and domestic irons, clays, ganister, and spiegel (after many and expensive trials) found to produce excellent rails, the price of the foreign article was gradually lowered, until it now stands at less than \$79 per ton in gold, or \$96 38 currency. Now that several

millions of dollars have been expended in machinery, furnaces, and experiments in perfecting the process of manufacture in this country, and numbers of our own citizens are dependent upon it for support, the business is threatened with annihilation by the pressure of English and Prussian makers. We, as users of steel rails and transporters of the food and material for American manufacturers and their numerous employés and skilled laborers, do not desire to be dependent exclusively upon the foreign supply, and therefore join in asking that, instead of the present ad valorem duty, a specific duty of two cents per pound be placed upon this article, being the rate fixed by a bill which passed the Senate January 31, 1867, and of a bill which was reported to the House by the Committee of Ways and Means during the same year.

These eminent railroad managers, representing, as we are informed, about half the total length of all the railroad tracks in the country, ask, in substance, in their memorial:

Impose this tariff, to save us from high prices of foreign steel rails, which are kept down by American competition, and in justice to American workmen and manufacturers.

When was the Commissioner right? In 1867, when he submitted with favoring statements an increased tariff on steel, which was "protested against by not a few American consumers;" or in 1869, when he said "the interests of the country and the revenue demand that the existing duties should be reduced," in the face of the assertion of the consumers that an increased duty would result in maintaining a reduction of prices?

To understand the power and benefit of our home competition it must be remembered that, up to 1859, when steel-making was first successful in Pittsburg, the English prices had varied little for twenty years, and were 10 cents, 12½ cents, and 16 cents for different kinds, but were reduced to 9 cents, 10½ cents, and 13 cents in 1860, and the quality sold for twenty years at from 16 cents upward is now, with a tariff much higher, offered at 13½ cents, gold. Thus the prices of cast-steel have been reduced, though the tariff has been raised meantime from 15 to about 40 per cent., and labor, materials, taxes, and all expenses have risen greatly. American competition effected this reduction. Our imports of steel in 1869 (Bessemer and wire not included) were little over 15,000 tons, while about 30,000 tons were made in this country, and experience shows that, when so large a share of any article consumed is made at home, home competition regulates the prices, the foreigner being compelled to meet them, and the foreign maker, not the American consumer, paying the duty.

Upon page 125 of his report the Commissioner urges the adoption of a new schedule of import duties upon the various grades of steel. In the great steel-making city of Sheffield, England, which exports the largest part of its products to this country, another schedule was prepared, suggesting the duties which our government should impose upon foreign steel, a copy of which schedule was sent by our consul in Sheffield to the Secretary of the Treasury, and is now before this committee. We think it worth while to place these two schedules side by side in order that the remarkable correspondence may be observed between the

one prepared by foreign steel-makers as best suited to *their* interests, and the other, prepared (quite independently, of course,) by a sworn officer of our government, as best suited to *our* interests.

THE COMMISSIONER'S SCHEDULE.

On scrap steel, $\frac{1}{4}$ cent per pound.
 On blister steel, in bars broken up for melting, $1\frac{1}{2}$ cents per pound.
 On German steel in bars, 2 cents per pound.
 On shear steel in bars, $2\frac{1}{2}$ cents per pound.
 On cast-steel ingots, and on all rough and unfinished castings in steel, 1 cent per pound.
 On castings in steel, drilled, bored, or hammered cold, $1\frac{1}{4}$ cents per pound.
 On cast-steel in bars, $2\frac{1}{2}$ cents per pound.
 On cast or German steel in plates, to 16 wire gauge, inclusive, 2 cents per pound; from 17 to 24, $2\frac{1}{2}$ cents per pound; above 24, 3 cents per pound.
 On cast or German steel in form of wire and sheets which are drawn or rolled cold to 16 wire gauge, 3 cents per pound.
 Thinner than 16 wire gauge, $3\frac{1}{2}$ cents per pound.
 On cast-steel tires for rolling-stock for railroads, 2 cents per pound.
 On cast-steel straight axles, shafts, piston rods, and general forgings to pattern, 1 cent per pound.
 Do., do., rough turned, $1\frac{1}{2}$ cents per pound.
 Do., do., finished ready for use, 2 cents per pound.
 On cast-steel crank axles, forged to shape, only $1\frac{1}{4}$ cents per pound.
 On cast-steel crank axles, forged to shape, rough turned, planed, and slotted, $1\frac{1}{2}$ cents per pound.
 Do., do., finished ready for use, 2 cents per pound.
 On cast-steel rails, $1\frac{1}{2}$ cents per pound.
 On steel not otherwise provided for, 2 cents per pound.

SHEFFIELD SCHEDULE.

On scrap steel, $\frac{1}{4}$ cent per pound.
 On blister steel, in bars broken up for melting, $1\frac{1}{2}$ cents per pound.
 On German steel in bars, 2 cents per pound.
 On shear steel in bars, $2\frac{1}{2}$ cents per pound.
 On cast-steel ingots, 1 cent per pound.
 On castings in steel, with holes drilled or bored, hammered or turned or planed in parts, but in no case hammered or worked hot, $1\frac{1}{4}$ cents per pound.
 On cast-steel in bars, $2\frac{1}{2}$ cents per pound.
 On cast or German steel, in sheets or plates, to No. 23 wire gauge, $2\frac{1}{2}$ cents per pound.
 On cast or German steel in form of wire or strips which are drawn or rolled cold to 16 wire gauge, 3 cents per pound.
 When drawn or rolled smaller than 16 wire gauge, $3\frac{1}{2}$ cents per pound.
 On cast-steel tires for rolling-stock for railroads, 2 cents per pound.
 On cast-steel straight axles, piston, connecting and coupling rods, crank-pins, slide-bars, and general forgings to pattern, only $1\frac{1}{4}$ cents per pound.
 If forged to shape and rough turned or planed, $1\frac{1}{2}$ cents per pound.
 If finished ready for use, 2 cents per pound.
 On cast-steel crank shafts, if forged to shape, only $1\frac{1}{4}$ cents per pound.
 On cast-steel crank shafts, if forged to shape, rough turned, planed, and slotted, $1\frac{1}{2}$ cents per pound.
 On cast-steel crank shafts, if forged to shape, finished ready for use, $2\frac{1}{2}$ cents per pound.
 On cast-steel rails, 1 cent per pound.
 On steel, or manufactures of steel, not otherwise provided for, $2\frac{1}{2}$ cents per pound.

How curious and how touching is this new proof of the stale assertion that the interests of both parties to every bargain are really identical! It is surely remarkable that the representatives of the two sides of a

great international negotiation have each been imbued by so clear and definite an inspiration that, though separated from each other by a distance of 3,000 miles, even the peculiar technical expressions which each employs are for the most part identical.

In ruder times the most inconvenient consequences might have resulted to a councillor whose propositions to the government he had sworn to serve showed so singular a resemblance to those urged by his adversary.

UNDERVALUATIONS OF STEEL.

The report alludes to the fact that the agents and officers of the government charge the importers of steel with systematic undervaluations, and quotes, without naming them, American manufacturers, who use steel as *raw material*, as saying that it is an "unnecessary interference" for our government to decide against the importers.

The Commissioner's indorsement of the high "reputation for integrity of the English importers and their commissioned agents in the United States," is, however, most unfortunate, for, since the publication of his report the efforts of our Treasury Department have fully disclosed systematic undervaluations, and the Sheffield steel-makers, finding their entire trade with this country suspended, were at last constrained to yield, and to invoice their exports of steel to America more nearly according to its real value.

In further proof that the charge of undervaluation on the English or Sheffield invoices is true, we submit a statement obtained from the Bureau of Statistics for the years 1867, 1868, and 1869, showing the exact number of pounds of imported steel of all kinds (except Bessemer and steel wire) entered for consumption in each year; the invoice value and the amount of duty collected; the average cost and the rate of duty paid. It will be seen that the percentage of duty upon invoice is $39\frac{1}{2}$ to $41\frac{1}{2}$ per cent., a lower ad valorem than on manufactures of steel of all kinds, the present duty on which is 45 per cent.

It will also appear that 65 per cent. of the steel imported is ingeniously crowded into the lowest rate; 30 to $32\frac{1}{2}$ per cent. into the middle class; and but $2\frac{1}{2}$ to 5 per cent. put into the highest class. We could name a single consumer of English tool (highest class) steel, who uses as much of this description as the whole importation shows. An approximately correct proportion of the several descriptions, from the best information we can obtain, would have been 25 per cent. of the lowest and highest classes respectively, and 50 per cent. of the medium grade.

Report of Bureau of Statistics.

	Imports.	Invoice value.	Duty paid.
	<i>Pounds.</i>		
1867.....	42,054,449	\$2,779,915	\$1,093,050, or $39\frac{1}{2}$ per cent., or 2.59 cents per pound.
1868.....	30,077,025	1,961,824	775,216, or $39\frac{1}{2}$ per cent., or 2.57 cents per pound.
1869.....	39,399,358	2,596,013	1,079,927, or $41\frac{1}{2}$ per cent., or 2.74 cents per pound.

Of the three classes of steel which pay different duties, the proportions invoiced were as follows:

1867. At $2\frac{1}{4}$ cents duty, 65 per cent.
 At 3 cents duty, 30 per cent.
 At $3\frac{1}{2}$ cents and 10 per cent. duty, 5 per cent.
1868. At $2\frac{1}{2}$ cents duty, 65 per cent.
 At 3 cents duty, 32 per cent.
 At $3\frac{1}{2}$ cents and 10 per cent. duty, 3 per cent.
1869. At $2\frac{1}{4}$ cents duty, 65 per cent.
 At 3 cents duty, $32\frac{1}{2}$ per cent.
 At $3\frac{1}{2}$ cents and 10 per cent. duty, $2\frac{1}{2}$ per cent.

This table tells its own story of fraud.

ELASTIC WEBBING.

The Commissioner's zeal in behalf of certain special interests—sometimes foreign, sometimes domestic—is one of the prominent features of his report, and it occasionally leads him into the most glaring and suggestive inconsistencies. A forcible example is found in his treatment of the elastic webbing question. On page 75 of the report he begins an elaborate argument in favor of a repeal of all duties on leather and manufactures of leather, quoting largely in support of his views from “experts,” and from “leading representatives” of the boot and shoe interest. On page 77 he says that the aggregate cost of the boots and shoes manufactured in the United States in 1868 was enhanced about $7\frac{1}{2}$ per cent., or over \$16,000,000, “by reason of the tariff,” which enhancement he styles an “unnecessary burden.” Of the whole number of shoes manufactured for women, misses, and children, he estimates that “at least 15,000,000 pairs are composed in part of two fabrics of wool, technically known as ‘lasting’ and ‘serge.’” On page 78 he adds: “Nearly one-half of the lasting and serge goods are fitted with elastic gores, made of rubber webbing inserted in the sides. This material is nearly all imported, and pays from 35 to 60 per cent. duties ad valorem. These duties, it is represented to the Commissioner by the trade, are equivalent to a tax of *five* cents per pair on all the goods using webbing as a constituent of their composition.” This is the Commissioner's own statement. Now, “nearly one-half” of the 15,000,000 pairs of lasting and serge shoes would be about 7,000,000, which, at five cents a pair, would make \$350,000 as the sum which consumers of these goods were required to pay in 1868 “by reason of the tariff” on elastic webbing; and if this much in 1868, certainly not less in 1869, and in each subsequent year during which the same duty would continue.

The drift of Mr. Wells' whole argument under this head is a plea for a *repeal* of duties on leather and all articles which enter into the manufactures thereof, including lasting and serge and rubber webbing, which duties he styles an “unnecessary burden.” On turning to page 122 we find how he proposes to lighten the burden of the consumers of

shoes made in part of rubber webbing. He does it in a way that has the merit at least of originality. He says:

The duty at present levied on cotton and India-rubber webbing is 35 per cent. ad valorem, and on silk and India-rubber webbing 50 per cent. ad valorem. With these duties it is the opinion of the appraisers that undervaluations are most extensive and difficult of detection. A change, therefore, is most desirable, and the following specific rates prepared for the Commissioner by experts in this business are herewith submitted:

FORM OF LAW.—On webbing, or fabrics of India-rubber and other materials combined, except silk,* * * over four inches wide, and not over five inches and one-eighth wide, eighteen cents per lineal yard; over five and one-eighth inches wide, and not over seven inches wide, twenty-five cents per lineal yard. On webbing or fabrics of India-rubber and silk,* * * over four inches wide, and not over five inches wide, forty cents per lineal yard; over five inches wide, for every additional inch in width, eight cents per lineal yard.

To understand fully how Mr. Wells' specific duties, as recommended above, would relieve the wearers of shoes manufactured in part of elastic webbing of the "unnecessary burden" now imposed "by reason of the tariff," your committee herewith submit a table, showing the comparative cost to the American consumer of the various descriptions of goods mentioned in the above extract when imported under the present ad valorem tariff, and if imported under that proposed by Mr. Wells. The data for this table were obtained, under date of March 1, 1870, from Messrs. Faxon, Elms & Co., of Boston, a respectable firm largely engaged in the importation of elastic webbing, and its correctness may be relied upon.

From these figures, which will be found on the following page, we learn that, by Mr. Wells' proposed tariff, the "unnecessary burden" on the above-named goods, which enter into these classes of women's and misses' shoes, would be *increased* an average of 180 per cent. This increase would be equivalent to an enhancement of *nine cents* in the cost of each pair of shoes, which, added to the *five cents* so pathetically referred to by Mr. Wells, would make the "unnecessary burden" on each pair amount to *fourteen cents*. What now becomes of his plea for *lower* duties? What of his "true principle of tariff reform," so ostentatiously and oracularly set forth on page 72 of the report, to wit: "*That the maintenance of an average duty of FORTY-SEVEN per cent., as under the existing tariff, upon all dutiable imports, is excessive and unnecessary?*" What, under the above plain showing, becomes of his reputation for consistency and reliability as an expounder of political economy and a collector of important information for the people?

The committee refrain from attempting to find any explanation for this remarkable recommendation of the Commissioner. What explanation, indeed, *can* be found?

Estimate of present and proposed duty on cotton elastic webs, quality No. 90.

Width.	Sterling cost.	Dutiable value; also cost of elastic webs in England, 10 per cent. exch'ge added.	Present duty of 35 per cent.	Value per yard in gold, duties having been paid, ad valorem.	Wells' proposed specific duty.	Value per yard in gold, duties having been paid, specific.	Increased cost per y'd under Wells' proposed duty.	Percentage of increase of duty per yard.
4½ inches.....	9d., 20 per cent. discount....	14½ cents per yard...	5 cents per yard...	19½ cents.....	18 cents per yard.	32½ cents.....	13 cents.....	260
5 inches.....	10d., 20 per cent. discount....	16½ cents per yard...	5½ cents per yard...	22 cents.....	18 cents per yard	34½ cents.....	12½ cents.....	220
5½ inches.....	11d., 20 per cent. discount....	17¾ cents per yard...	6¼ cents per yard...	24 cents.....	25 cents per yard.	42¼ cents.....	18¼ cents.....	300

Estimate of present and proposed duty on cotton elastic webs, quality No. 300.

Width.	Sterling cost.	Dutiable value; also cost of elastic webs in England, 10 per cent. exch'ge added.	Present duty of 35 per cent.	Value per yard in gold, duties having been paid, ad valorem.	Wells' proposed specific duty.	Value per yard in gold, duties having been paid, specific.	Increased cost per y'd under Wells' proposed duty.	Percentage of increase of duty per yard.
4½ inches.....	13d., 20 per cent. discount....	21 cents per yard...	7½ cents per yard...	28½ cents.....	18 cents per yard.	39 cents.....	10½ cents.....	145
5 inches.....	14½d., 20 per cent. discount..	23¼ cents per yard...	8½ cents per yard...	31½ cents.....	18 cents per yard.	41¼ cents.....	9½ cents.....	121
5½ inches.....	16d., 20 per cent. discount....	25½ cents per yard...	9 cents per yard...	34½ cents.....	25 cents per yard.	50½ cents.....	16 cents.....	177

Estimate of present and proposed duty on silk-faced elastic webs, quality No. 62.

Width.	Sterling cost.	Dutiable value; also cost of elastic webs in England, 10 per cent. exch'ge added.	Present duty of 50 per cent.	Value per yard in gold, duties having been paid, ad valorem.	Wells' proposed specific duty.	Value per yard in gold, duties having been paid, specific.	Increased cost per y'd under Wells' proposed duty.	Percentage of increase of duty per yard.
4½ inches.....	1s. 8d., 20 per cent. discount.	32¼ cents per yard...	16½ cents per yard.	48½ cents.....	40 cents per yard.	72¼ cents.....	23½ cents.....	148
5 inches.....	1s. 10d., 20 per cent. discount.	35½ cents per yard...	17¼ cents per yard.	53¼ cents.....	40 cents per yard.	75½ cents.....	22¼ cents.....	125
5½ inches.....	2s. 0¼d., 20 per cent. discount.	39¼ cents per yard...	19½ cents per yard.	58½ cents.....	44 cents per yard.	83¼ cents.....	24½ cents.....	125

REVENUE FROM IMPORTS.

On page 83 of the report, the Commissioner, speaking of pig iron, asserts that "all the facts show that a reduction or entire repeal of the duty would *in no degree affect the manufacture*, but only reduce its profits to a par with those realized in other branches of domestic industry; and, furthermore, that under an abatement or repeal of the duty *no more pig iron would be imported than at present*, for the American manufacturer would simply reduce his prices, and thus retain, as now, full command of the domestic market." The first proposition here stated is pointedly contradicted by the experience of the country in every period of free trade or anti-protective legislation with which it has been afflicted. The fact can be conclusively established that, during the "hard times" following every reduction of the tariff, the production of American pig-iron was greatly reduced by the stoppage of American furnaces and the consequent surrender of our markets to the foreign manufacturer. It is not necessary at this late day to recall the past in detail to prove how widely at variance with the teachings of our low-tariff experience is the Commissioner's most positive statement. The whole country knows these chapters of our history only too well.

Your committee desire more particularly, however, to indicate here another of those incongruities of statement and inconsistencies of argument for which the report under consideration is so marked, as illustrated by the second of the propositions above quoted. The Commissioner says, on page 83, that "under an abatement or repeal of the duty no more pig-iron would be imported than at present," and, on page 108, admits that "no material increase of imports being probable, the loss to the revenue would, therefore, be approximately \$750,000" annually from pig-iron alone. On page 129, in the "Schedule of a Tariff" which is there submitted as a revenue measure, the Commissioner proposes to raise from "metals" as follows:

Iron, steel, lead, tin and manufactures of same, at such specific rates as shall amount to 25 per cent.....	\$15,000,000
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Of course, the Commissioner's assumptions and admissions above concerning pig-iron will also apply to all kinds of "iron," and to "steel," and their manufactures, the two leading articles in the above classification. The inquiry naturally suggested itself to your committee whether with *reduced* duties and *no increase in importations*, the proposed revenue of \$15,000,000 could be obtained from the sources named, and a note was addressed to the head of the Bureau of Statistics, asking for a statement showing what amount of revenue was derived therefrom during the past few years. The following official statistics were promptly furnished:

From home consumption statements for the years 1867, 1868, and 1869.

	1867.		1868.		1869.	
	Value.	Duty.	Value.	Duty.	Value.	Duty.
Iron and m'f's of..	\$14, 979, 965 31	\$7, 304, 282 12	\$14, 476, 201 73	\$7, 334, 781 97	\$19, 590, 895 22	\$10, 993, 439 98
Steel and m'f's of.	10, 016, 228 50	4, 139, 601 82	8, 053, 990 40	3, 398, 121 00	9, 212, 474 36	4, 008, 908 92
Lead and m'f's of.	2, 881, 677 29	1, 332, 584 01	2, 784, 573 67	1, 308, 401 41	3, 810, 964 84	1, 817, 122 37
Tin and m'f's of..	7, 526, 426 15	1, 763, 165 41	8, 384, 776 70	1, 965, 978 04	10, 307, 757 98	2, 408, 302 67
Total.....	35, 404, 297 25	14, 539, 633 36	33, 699, 542 50	14, 007, 282 42	42, 922, 092 40	19, 227, 773 94

From this table it appears that in 1867 and 1868, with the present duties upon the four classes of imported goods named, the total annual revenue was *less* than \$15,000,000, while the imports were, in round numbers, respectively \$35,000,000 and \$33,000,000. In 1869 the total revenue was \$19,227,773 94; imports, \$42,922,092 40. The Commissioner recommends a reduction of the duties on these articles to "such specific rates as shall amount to 25 per cent." *ad valorem*, which would require an annual importation of \$60,000,000 to yield the revenue of \$15,000,000 which he considers a necessary feature of his plan of "tariff reform." How the Commissioner proposes to *increase* our importations from \$43,000,000 to \$60,000,000, and yet *not* increase them, is a problem in simple arithmetic which your committee leave to him to solve at his leisure. The country at large will, most probably, no matter how the Commissioner solves the problem, refuse to approve his policy of increasing our foreign purchases of metals almost forty per cent., with a net loss to the Government of four millions of dollars annually in revenue. Such a policy of "tariff reform," if applied to all articles of importation, would increase our present annual imports from \$450,000,000 to \$600,000,000, and seriously *decrease* the revenue of the Government. It would also add largely to our foreign indebtedness, for, if the exports of our labor products do not *now* equal our imports, the balance of trade against us would certainly be greater if the proposed encouragement to foreign manufacturers of metals should be extended to foreign manufacturers generally. And this balance of trade could only be met by still further depleting the country of its gold and silver, or by sending abroad the bonds of the government which should be held at home.

PROGRESS OF HOME MANUFACTURES AND GROWTH OF NEW INDUSTRIES.

The Commissioner passes over the growth of our home manufactures with such quiet omission as to leave the readers of his report uninformed on important facts which it was a part of his duty to give, and which should be known as guides to correct conclusions.

That this singular omission may be, in part at least, supplied, your

committee have obtained, from a highly reliable and intelligent source, the following list of manufactures recently established or enlarged, which could be largely extended and made to embrace many classes as well as many single establishments not given.

Since the enactment of the tariff bill of June 30, 1864, great and constant progress has been made in developing establishments already existing, and in erecting new establishments for the manufacture of almost every class of merchandise embraced in that act.

A general summary of these results may be first given under the sections of that act as follows:

SUGAR.—Beet-root sugar has been made in Illinois and in Wisconsin while machinery has been imported and preparations made for its manufacture in California and in New Jersey.

SPIRITS.—Brandy has been successfully and largely made in California; wine is made in even larger proportion, not only in California, but in all the central States, including New York and Michigan. Cordials and *liqueurs* are also largely made from domestic rectified wine and other spirits. Malt liquors are almost exclusively made in the United States for consumption here.

CIGARS.—The domestic manufacture of cigars has risen from the proportion of half, or less than half, of the consumption, to the proportion of seven or eight times the quantity imported. In the fiscal year ending June 30, 1864, the importation was 1,150,000 pounds. In the fiscal year ending June 30, 1868, it was 250,000 pounds. Yet the consumption was greater in 1868 than in 1864, by probably more than 250,000 pounds.

BAR AND ROLLED IRON.—The increase in the manufacture of all forms of bar and rolled iron is large, though probably the forms are not much changed.

RAILROAD BARS.—In iron and steel railroad bars the increase is large, and new forms have been introduced: first, of iron and steel rolled together; and second, of all-steel rails.

IRON MANUFACTURES.—The following descriptions of iron and manufactures of iron are now almost wholly supplied from domestic production: Boiler, and other plate iron, iron wire, (covered,) spiral springs of wire, locomotive tires, mill irons and wrought irons for ships or engines, anchors, malleable iron castings, cut nails and spikes, horseshoe nails, cut tacks, brads, &c., screws for wood, cast butts and hinges, hollow-ware of all kinds, andirons, sad-irons, hammers and sledges, axles, railroad chairs, nuts and washers, spikes, rivets, and bolts, stoves and stove plates, with many other unenumerated manufactures of iron.

Of the following descriptions of iron manufactured, the proportion now imported is much smaller than in 1864, while the consumption rapidly increases:

Sheet iron, (both common and polished,) slit rods, wire rods, anvils, wrought steam, gas, and water tubes and flues, cast-iron pipe, galvanized iron in all forms.

Of steel and steel manufactures the change since 1864 has been very great. Of the manufactures of steel, almost wholly of domestic production, there are: Steel wire of all sizes, cross-cut saws, mill, pit, and drag saws, hand-saws, back-saws, skates, side-arms, circular saws and saw plates, machine needles.

The following are very largely increased: Cutlery, of all classes, files and file rasps; cutting instruments and machinery.

Hardware and cutlery of every description are now made in the United States to an extent relatively twice as great as in 1864. Cutlery at many establishments in Connecticut, Massachusetts, &c., and at Pittsburg and Beaver, Pennsylvania; by the Meriden Cutlery Company, Meriden, Connecticut; Beaver Cutlery Company, Beaver, Pennsylvania; J. Russell & Co., Green River Works, New York; New York Knife Company, Wallkill River Works, New York; Booth Brothers, Sussex Factory, Newark, New Jersey, and at least twenty other large establishments.

The following are the leading cast steel manufactories in the United States, most of them very recently established, or extended beyond their production in former years:

Cast steel.—The William Butcher Steel Works, Philadelphia; Philadelphia Steel Works, Baldwin & Co., Philadelphia; Disston & Son, Keystone Saw and Tool Works, Philadelphia; William & Harvey Rowland, spring, blister, plow, and shovel steel, Philadelphia; Black Diamond Steel Works, Park, Brother & Co., Pittsburg; Sheffield Steel Works, Singer, Nimmick & Co., Pittsburg; Hussey, Wells & Co., Cast Steel Works, Pittsburg; Crescent Steel Works, Miller, Barr & Parkin, Pittsburg; Pittsburg Steel Works, Anderson & Woods, Pittsburg.

Steel saws.—St. Louis Saw Works, St. Louis, Missouri; American Saw Company, Trenton, New Jersey; Wheeler, Madden & Clemson, Middletown, New York; H. W. Peace, Brooklyn, New York; Park, Brother & Co., Pittsburg; Henry Disston & Sons, Philadelphia; Singer, Nimmick & Co., Pittsburg; Ohlen & Lauman, Columbus, Ohio; Dirigo Saw Works, Bangor, Maine.

Steel files.—Black Diamond File Works, G. & H. Barnett, Philadelphia; S. G. Howe & Co., Sing Sing, New York; Auburn File Works, Auburn, New York; Nicholson File Company, Providence, Rhode Island; Granite File Works, Manchester, New Hampshire; New York File Company, Kearney & Birdsall, New York; Lancaster File Company, Lancaster, Pennsylvania; J. Collett, Bangor, Maine.

Bessemer steel works.—John A. Griswold & Co., Troy, New York; Pennsylvania Steel Company, Harrisburg, Pennsylvania; Cleveland Rolling Mill Company; Freedom Iron and Steel Company, Lewistown, Pennsylvania; Cambria Iron Company, Johnstown, Pennsylvania; E. B. Ward, Wyandott, Michigan.

Other conspicuous new iron and steel manufacturers may be cited, as the Iron and Steel Wire Ropeworks, John A. Roebling & Sons, Trenton,

New Jersey; cotton and woolen machinery manufacture, by the Bridesburg Machine Company, Philadelphia; steel-headed railway bars, by Trenton Iron Works, Cooper, Hewitt & Co.; and the works at Danville, Pennsylvania, of Waterman, Beaver & Co.

The detail of establishments engaged in making edge tools, axes, steel and iron squares, and hardware generally, is too great to be given. Of new factories of this class since 1864, the number is several hundred, and they supply more than nine-tenths of the demand, both for consumption and export. Steel forks and steel tools of various kinds are even exported to the British Islands, and very largely to British and other colonial possessions in tropical climates.

Shovels, spades, axes, forks, chisels, hammers, nails, and particularly tools requiring peculiar excellence of form as well as superior quality, have completely occupied the domestic, and largely the foreign field.

In manufactures of metals, other than iron and steel, there is an equally great change, and the number of new works on brass and white metal goods, plated wares, saddlery, decorated articles, &c., &c., amounts to hundreds. The increase in these has been greater between 1864 and the close of 1869; the first check to their progress being under the practical decline of the tariff, when the recent fall in gold took place.

WOOLEN MANUFACTORIES.—Since the acts of 1862, 1864, and 1867 the woolen manufacture has been greatly extended. There is no branch of it, except that of fine broadcloths, in which entire success has not been attained, and the immense supply required in the country is almost wholly provided at home. Of the “cloths and cassimeres” imported, reaching about \$6,000,000 in value yearly, nearly all is broadcloth. Imported “shawls” reach less than \$2,000,000 in value; “carpets” about \$4,000,000, and “dress goods,” chiefly of worsted, and worsted with cotton or silk, go to the large sum of \$15,000,000 in value.

On cloths and cassimeres of wool there are now more than three hundred factories engaged, the new departments being the cloakings, beavers, coatings, and fine “French” cassimeres, &c.; the other branches being longer established. Throughout the West a more rapid increase in the number of mills of this class is observed than in New England.

On shawls there are about twenty-five factories engaged; the production is comparatively new, and completely supplies the market.

On flannels there are fully thirty factories engaged, supplying four-fifths of the demand.

On blankets there are about forty-five mills engaged, and the market is almost wholly supplied by them.

On hosiery and knit goods there are about a hundred and fifty mills engaged, almost wholly supplying the market. Some departments of this manufacture are new since 1867, and a large share since 1864.

On carpets there are nearly one hundred mills and other establishments engaged—nearly one-half being yet woven by hand-loom. The production is full upon ingrains and the lower grades, completely sup-

plying the market, but of Brussels and the finer carpets four-fifths are imported. The new manufacture is of these finer kinds, and also of felts and druggets, a number of large establishments having recently been devoted to making the last named goods.

On balmorals, kerseys, and various mixed manufactures, the recent increase has been very rapid, balmorals being newly and wholly made in the United States—twenty or thirty large mills being engaged upon them.

Worsted manufactures have especially attained rapid development under the present tariff; first, worsted yarns, on which ten or twelve mills are engaged; second, worsted reps, terry and like goods, on which five or six mills have started with great success; third, worsted dress goods, as mohairs, mohair lustres, mohair poplins, &c., on which one very large mill at Philadelphia, with two or three at other places, have begun within a year past. The great New England mills at Lawrence, Lowell, and Manchester have been making worsted dress goods since 1864.

SUMMARY OF THE GROWTH OF WOOLEN MANUFACTURE.—The extent of the present possession of the market for fine woolens of every other description than what are distinctively known as dress broadcloths is best illustrated by a list of nearly three hundred factories, which but for its length we would give in full, represented in the New York market alone, all engaged on cassimeres, coatings, beavers, tweeds, repellants, ladies' cloakings, and other like fine goods, all wool or cotton warp, and which were, until recently, nearly all imported. The distinctively fine goods are almost all the growth under the tariff since 1861, and the market of the United States, now grown to three times the measure of 1860, is held by this domestic production so nearly exclusively that the proportion of foreign goods entering into it is scarcely distinguishable.

The three hundred mills so reported are, of course, not all; at least fifty more would be represented exclusively in other markets of sale than New York, but taking, for three hundred only, an average yearly product of \$200,000 in value of goods, the total is \$60,000,000; and of this one-half, or \$30,000,000, is the growth since 1864, with a continued gain, although under adverse conditions of the general markets, since the act of March 2, 1867.

In the line of finer manufactures of wool and worsted the progress is more recent and not yet so complete; but there is evidence abundant that two or three years more will develop this branch equally with the heavier woolens. The hold of the ten or twelve great establishments on the trade in mohairs, worsted stuffs, and other light goods, usually described as dress goods, is strong already. As an evidence of the fact, the United States consul at Bradford, England, the seat of the manufacture of this class of goods in England for the American market, reports

the decline in exporting such goods for two months of 1869 and 1870 as follows:

February, 1869.....	£254, 093	March, 1869.....	£233, 723
February, 1870	192, 958	March, 1870.....	184, 815
Decrease.....	<u>£61, 135</u>	Decrease.....	<u>£48, 908</u>

For the first time in the history of the trade the market is really supplied with a domestic production of mohairs, alpacas, Italian cloths, &c.; delaines having been abundant for some years previously.

We assume, therefore, that the tariff on woolens is effective and valuable, as it was designed to be, in developing at home the enormous industry that must be engaged in the manufacture of woolens to supply our markets.

Further examination in almost every other class of woolens would show the same progress. Knit goods almost completely supply the field at home; and the growth since 1862 is to about three times the value then produced.

Shawls of all sorts, other than mohair or camel's hair, are no longer imported in any considerable degree.

Blankets, both of the finer white sorts, including carriage and traveling blankets, as well as all coarse Indian blankets, are also not imported to any amount, while the domestic production has reached large aggregates. Bearing in mind the enormous importation of all classes of blankets formerly existing, the value of the protection which secures this industry will be felt.

In New England, as we have shown, and we repeat the statement because of the attempts now made to convey the impression that it is hostile to the tariff on woolens, the development of this manufacture has been very great within five years, and especially since 1867. Ten or twelve of the largest mills of the country manufacture delaines, alpacas, mohairs, Italian cloths, poplins, reps, chenes, armures, &c., including everything known in dress goods of worsted, mohair, &c. Among the number of mills the chief are the Pacific Mills; the Atlantic Delaine Company; the Lowell Mills; the Manchester Mills; the Hamilton Mills, &c. The production of domestic mills is rapidly supplying the market, and with the continuance of the protection of 1868 and 1869 would, in two years more, cover two-thirds of the consumption in the United States.

MANUFACTURES OF SILK, OR SILK AND WOOL.—The growth of the silk manufacture in the United States may be shown by comparing the importation of raw silk in 1864 with the like importation in 1869. For the fiscal year ending June 30, 1864, this importation was 374,973 pounds; while in the calendar year 1869, it was 735,000 pounds, nearly or almost exactly twice as great. And of silk organzine, and of twisted and spun silk, used only in further manufacture, the quantity was also doubled, increasing from about 50,000 pounds to 100,000 pounds. Taking, say,

450,000 pounds of raw silk as the material of the new manufactures of silk since 1864, the value of finished goods cannot be less than \$12,000,000, or more than \$20,000,000 for the entire manufacture of silk in the United States.

As much of this silk is mixed with other materials, the separate value of goods all silk would not reach so large a sum—probably two-thirds or three-fourths of this sum only. Examining these by the best attainable information in detail, we find the following: On dress goods and satins of silk, about ten mills or factories are employed; on silk ribbons, seven or eight mills or factories; on silk trimmings, fringes, &c., about one hundred establishments; on silk thread, about twenty establishments; on silk-mixed goods, of the classes not usually reckoned with woollens, cottons, &c., about forty establishments. The existence of nearly or quite one-half of these depends upon the acts of 1864 and later, fixing the existing rates of duty on manufactures of silk.

Some of the leading manufactories of silk, of recent establishment, deserve to be cited in detail, in order to silence the cavil raised against general statements, and to do justice to those who take risks in industrial enterprises at critical periods like the present; we therefore name the following:

SILK DRESS GOODS, RIBBONS, &c.—Black silks; colored and gray; green and other dress silks; silk poplins, stripes, linings; ribbons, belt-ings, &c.—Cheney Brothers, Hartford, Connecticut.

Black, colored, green, and gray dress silks; cashmere silks, &c.—P. G. Givernaud, West Hoboken, New Jersey.

Black and other dress silks; satins; serges; neck-tie silks, &c.—J. S. Shapter, Paterson, New Jersey.

Silk poplins, of every class and color—Fred'k Baare, Schoharie, New York.

Silk serges, scarfs, linings, &c.—Dale Manufacturing Company, Paterson, New Jersey.

Silk ribbons, belts, &c.—Werner, Itschner & Co., Philadelphia.

Silk ribbons, scarfs, sashes, &c.—William H. Horstman & Sons, Philadelphia.

Of silk trimmings, laces, gimps, fringes, &c., the number of establishments is fully a hundred; but this department is not so largely new as the preceding. There are several new establishments making organzine and spun silk, and otherwise preparing raw silk for further manufacture.

COTTON MANUFACTURES.—The manufacture of all the finer classes of cotton goods has advanced rapidly since 1864, the gain being chiefly in the finer prints, cambries, and what are generally known as white goods, percales, jaconets, and jacquard-woven goods of various kinds. In regard to many of these finer classes the change is great, and their importation has fallen off to small proportions.

The total importation of cotton yarn goods in the fiscal year 1867-'68

was less than 40,000,000 square yards; the re-exports of the same were 500,000 square yards, and the export of domestic cottons was 13,750,000 square yards. The consumption cannot have been less than five times the importation, excluding the unbleached domestic grades, which formed the chief share of the domestic export. The production of fine bleached and printed cottons is enormous, this class being at least doubled in amount since 1864.

COTTON SPOOL-THREAD is another new department, dating since 1864 almost entirely. There are now ten or twelve large establishments engaged exclusively in this production, among the largest being Clark's, recently transferred from Scotland to Paterson, New Jersey. The number of American mills on spool thread is now as great as the number of Scotch and English sending to this market; and although the larger share of the supply may yet be received from abroad, it cannot be long before the production here will meet most of the demand for consumption.

Statistics of the various manufactures of Cincinnati, Cleveland, Detroit, Chicago, Milwaukee, Minneapolis, St. Louis, Indianapolis, and many interior towns in the West, and from the South also, would show a large increase; but this list will give some idea of the growth of our manufactures, and thus partly supply the omission of the Commissioner

NUMBER OF PERSONS EMPLOYED IN MANUFACTURES.

Not being satisfied with the Commissioner's estimates of the number of persons employed in manufactures, your committee addressed a letter of inquiry to the secretary of the American Iron and Steel Association, and this was done with the more confidence as the Commissioner himself quotes Mr. McAllister as reliable authority. His reply is as follows:

OFFICE OF THE AMERICAN IRON AND STEEL ASSOCIATION,
522 Walnut Street, Philadelphia, March 30, 1870.

DEAR SIR: I beg leave to submit answers to the interrogatories made in your favor of the 10th instant:

1st. What number and proportion of our total population is engaged in the different branches of manufactures?—Answer. Number of persons employed in manufacturing establishments, 1,900,000. Number directly supported, 10,000,000.

2d. What number and proportion in the manufacture of iron and steel and manufactures thereof, and in mining ore and coal for same?—Answer. Number of persons actually employed, 640,000. Number of persons directly supported, 3,200,000.

3d. What amount of capital is at present invested in the manufacture of iron and steel and manufactures thereof?—Answer. Estimated at \$420,000,000.

4th. How many persons are directly and how many indirectly supported by manufactures, and especially by iron and steel?—Answer. The above question is answered pretty nearly in the answers to the first and second interrogatories. Perhaps one-half of the whole population of the country is indirectly supported by the many branches of manufacturing industry.

In regard to the number of hands employed in the manufacture of iron and steel, and manufactures thereof, in Pennsylvania, I would say perhaps something less than two-

fifths of the whole number in the country, or about 250,000 persons employed, and 1,200,000 supported.

I am, sir, very respectfully,

HENRY McALLISTER, *Secretary.*

Hon. DANIEL J. MORRELL,
Washington, D. C.

This differs widely from the Commissioner's mode of putting his case. He estimates the number of persons employed in cotton, woolen, and leather manufacture, and in iron making, railway service, and fisheries, at 535,000. Leather and the manufactures thereof are included, and pig and bar iron, but not the manufactures thereof. Had they been, not only the number of persons employed in manufactures, but the value created, would have been largely increased. Such increase, however, would not have been in harmony with the spirit of the Commissioner's report.

THE CHEAPENING OF COMMODITIES.

The committee feel bound to protest most earnestly against the general drift and tenor of the report, in that it virtually holds up the cheapening of commodities to be the chief, if not the sole object of our industrial legislation.

Doubtless the governing classes of England have acted upon this principle for many years. The numerous non-producing consumers of that country, who, by their connection with, or dependence upon its legislators and rulers, cause their wishes to be strongly reflected in its laws, have naturally no other interest in the matter than to see such general cheapness prevail as will give them for their fixed incomes the largest possible portion of the laborers' products. The great factory owners of England, finding their domination of the world's markets endangered by the growing arts and protective legislation of other countries, endeavor to maintain their supremacy by offering their products at constantly lower prices, a policy requiring the smallest possible outlay for wages and for the laborer's necessities of life, our breadstuffs included.

General cheapening of commodities means everywhere general oppression and degradation of the producers for the benefit of non-producing consumers.

This cruel and unnatural system, so utterly at variance with all our habits and needs, is now strenuously resisted in England itself since the laboring population has acquired a greater representation in Parliament, and will probably soon be so modified there as to conform more to the interest of the producers and less to that of the mere consumers. It is a source of astonishment and mortification to your committee that the Commissioner should have been so pliant to the influences which the upper classes of England know so well how to wield, as to suggest for the guidance of our industrial legislation English notions which are so perfectly unsuitable to the temper of our people and to our condition, and which, if it were possible to bring them into practice here, would simply

reduce our working men and women to the degradation, poverty, and ignorance of European laborers, thus endangering our government, which rests upon the intelligence and contentment of the people, and preventing that immigration of skilled laborers attracted here by the higher wages and improved civilization which contribute so greatly to our prosperity.

THE INDUSTRIAL STRUGGLE.

Your committee have remarked with pain the Commissioner's apathy to the tremendous fact that his own nation, though ostensibly at peace with all the world, is really engaged in unrelenting warfare with several other nations, and particularly with Great Britain. That this warfare is waged, not with armies and navies, but with the complex enginery of industry and trade, does not palliate the Commissioner's negligence, since his duty has been to study exactly those agencies which in our times are no less potent for the aggrandizement or the subjugation of the contending parties than were the armed conflicts which they have in great measure superseded.

The trained legions of England are fighting us from her mines and workshops, under guidance more subtle and more ruthless than that of military rule, and from those secure fortifications they launch the missiles which are to subjugate and impoverish us. Her mines and factories are pitted against our mines and factories in a struggle wherein our independence is at stake, and every industrial establishment upon our side which is forced to succumb in the struggle is one of our batteries silenced, with its soldiers cast into the hospital.

This struggle is one which we cannot avoid, and in which defeat must be fatal. The continent is ours to subdue and to possess, ready to yield all its treasures to us and to our posterity, but only upon the condition of our being able to develop all its capacities and to maintain ourselves against all comers. Any dreams of a merely agricultural wealth and civilization are utterly illusory, for no merely agricultural people have ever long maintained their independence except when both they and their country were too poor to excite cupidity.

Our own vast and teeming agricultural regions, embracing the whole broad and bountiful basin of the Mississippi, can form no exception to this rule. Inconceivably vast as are the resources of that favored expanse, its population, if restricted to agriculture, debarred from manufactures themselves, and undefended by conterminous manufacturing communities belonging to the same great nation, would merely fall a prey to the trade plunder and rapine of Europe, and would vainly exhaust the riches of their soil for the benefit of the cotton lords of Manchester.

The importance of the functions performed by the manufacturers in the social economy of this nation can hardly be overstated. Not only do they make a market for the crude products of the field and the mine,

increasing twice or twenty fold the value of those products; not only do they protect the industrial and financial independence of the nation, by supplying without any detraction from the nation's treasure the numerous and costly articles which our people will consume; not only do they furnish within our own borders the appliances demanded in modern war, but they are a principal means of advancing the civilization of the country, and of diffusing the useful arts into ever-widening districts. That manufactures were originally first planted along the Atlantic slope was inevitable, since there was the first seat of population; that the same region is constantly improving its manufactures and undertaking new and more difficult branches is also inevitable, since its position facing Europe causes its industries to be the first assailed, and constantly stimulates its energies to fresh efforts and to new inventions. It is while making these advances that the Atlantic seaboard acts as teacher to the sister communities lying further westward, who draw freely from it those arts and industries and skilled laborers which it has acquired.

A perfect harmony of interests exists in this respect between the East and the West, as also is the case between the North and the South, and between the American farmer and the American manufacturer.

That the Commissioner, instead of exhibiting this community of interest and thus reinforcing the tie of nationality, should appear willing to depreciate the manufacturing class and to excite against it the jealousy and animosity of the farming class, is to your committee the source of surprise and regret.

CONCLUSIONS.

Other parts of the report are open to animadversion, but further criticism is needless. Enough has been done to show that the statements and teachings of the Commissioner gave the petitioners just cause of alarm. Some of the contradictions and errors of the report, so far as examined, may be stated as follows:

It opens by declaring our material progress to be "wonderful," and "in a great degree independent of legislation," and then devotes large space and effort to show that this "wonderful" progress has been, and is, obstructed by legislation.

It alleges that the farmer is now oppressed by the operations of the present tariff and currency, while in the report of the same Commissioner for 1868 an attempt was made to show that the farmer had reaped undue profits for many years under the operations of the same tariff and the same currency.

It makes unfair and untruthful statements touching the condition of the farmer as compared with that of other American producers, when the author must have known that the only effect of such statements would be to excite jealousy and hostility between those whose interests, rightly understood, are in perfect harmony.

It makes pitiful complaint of some "taxes" or tariffs, and then proposes others much more grievous, as, for instance, its complaint of an alleged "tax" of \$3,900,000 on salt, and its proposal of a "tax" or tariff of \$60,000,000 on sugar, molasses, coffee, and tea.

It underrates the products of manufactures and overrates the products of agriculture, while both branches of industry are best served by the impartial truth.

It greatly underrates the number of persons employed in manufactures, especially in those industries which are most essential to the well-being of the country, and the inestimable value of which was so completely demonstrated during our late struggle for national existence.

It misstates the prices, the costs, and the aggregate values of manufactures in important particulars, as follows:

It alleges that the cost of American salt in our markets is from 40 to 45 cents a bushel, when correct quotations in commercial centers show that in 1869 it ranged from 28 to 34 cents.

It alleges that the importation of gunny cloth in 1869 did not exceed five thousand bales, when the actual import exceeded ten thousand bales.

It alleges that since the enactment of the wool tariff there has been a large decrease in the number of sheep in this country, when the statistician of the Agricultural Department reports a considerable increase.

It conveys the impression that the decrease in the price of wool is the result of the wool and woolen tariff of 1867, and omits the important fact that a rapid increase of sheep and an over-production of wool in other countries had decreased prices in foreign markets, thus tending to a decrease in our own.

It urges working men and women to so act as to compel the abandonment of the present tariff on wool and woolens, that they may obtain cheaper clothing, but suppresses the fact that cloths, blankets, and other woolen manufactures are as cheap now as in 1860, notwithstanding an increase in the price of labor.

It greatly under-estimates the amount of capital engaged in cotton manufacture, the value of the product of that manufacture in 1869, the number of persons supported by it, and the value of agricultural products it consumes.

It alleges a cost of production of pig iron which is shown to be fallacious and unreliable by every authority within reach of your committee, now connected in any manner with its manufacture.

It alleges that no material increase of the imports of iron is probable, and yet recommends a schedule of a tariff on this and other metals which would render a large increase of these imports necessary in order to raise the revenue it estimates to be required from these sources.

Its assertion of the cost of freights, and their influence as protection to the manufacturers in the interior, is a gross mistake or misstatement.

It suppresses the fact that the price of lumber rapidly fell in 1868 and 1869, and argues that the present duty thereon tends to an increase of the price, when the market quotations show that it is as low now as during the last three years prior to the imposition of the duty.

It alleges that the duty on coal enhances the price of all the coal of the United States to the consumer, a statement contradicted by the statistics of the coal trade for the last ten years. No importation of the coal most largely produced and most generally used, the anthracite, is possible, and the revenue collected upon bituminous coal is paid by the producers abroad, by so much reducing their own exorbitant profits.

It alleges that the present duty on elastic webbing, used in the manufacture of shoes, is equivalent to "an unnecessary tax" of five cents on each pair, and yet recommends a change in the duty, which would make this "unnecessary tax" amount to fourteen cents on each pair.

It unfairly, and untruthfully, depreciates the condition of our artisans and laborers, endeavoring to create the impression that, through the operations of the present tariff and the present currency system, labor does not command the same reward it did ten years ago, when the fact is patent to all, that the general prosperity of the people during the past ten years, notwithstanding the drain of a great war, has been most marvelous and wholly unprecedented.

It alleges that domestic competition, excited by tariff laws, "is accompanied by the usual resort of turning out articles or products of inferior quality, but with an external good appearance," thus ruthlessly condemning the American manufacturer, and inferentially praising his European rival, when the truth, fairly stated, would have bestowed praise and condemnation in reverse order, and shown that the competition engendered by a protective tariff has uniformly resulted in greater mechanical skill, improved machinery, and finer and more durable workmanship.

It entirely omits any detailed exhibition of the growth of our manufactures under the existing tariff system, and of the advantages to the country derived from that growth.

It endeavors to cast suspicion and odium upon American manufacturers whose gains and strength belong to their country, and who are the defenders of American independence in the trade battles of the world; and invites this country to trust in and pay tribute to foreign manufacturers, whose gains and strength give increase of riches and power to our rivals and enemies.

It slanders the American inventors and manufacturers, whose labors in the useful arts, under the encouragement of existing laws, have given a multitude of new and improved products to the American people, who draw from home manufactures a great variety of articles of common use unknown to the mass of workers in other lands, and better in form, tex-

ture, and quality, than such similar goods as may be furnished by foreign commerce.

It unpatriotically seeks to establish the principle that dependence upon foreign manufactures is our natural condition, in defiance of the policy of all enlightened nations, whose civilization has been built up and whose people have prospered as a consequence of legislation favoring a diversification of their industry.

It recommends large reductions, or a total abolition of duties upon such importations as come in competition with the staple products of American mines, forests, and manufactories, and that the loss of revenue thus caused should be compensated by increased duties upon necessities of life not produced in our country, thus displaying undue regard for the interests of foreign manufacturers and traders, and a disposition to impose needless burdens upon his own countrymen.

It aims to subvert the protective policy of our own country, established since the formation of the government, under which our people have always prospered, and every departure from which has resulted in enforced idleness of the laboring classes, individual suffering and bankruptcy, and loss of national credit and revenue.

It proposes to raise the revenue needed by the government from such import duties as will enhance the cost of foreign necessities of life consumed by our laborers, while denying to them adequate protection against the invasion of foreign labor products competing with their own.

The natural effect of the Commissioner's recommendations, if heeded, would be to array class against class, and section against section, sowing anew the seeds of hate, strife, and disunion, which, scattered long ago for like purposes, sprang up and bore fruit, the taste of which is still bitter upon our lips; nor is this effect concealed by pretended benevolence toward those whom it would degrade, enslave, and destroy.

In short, the report seems to have been written in the interest of foreign producers and manufacturers, and its suggestions and recommendations, if followed by consequent legislation, would be hostile to the best interests of the people of the country, and tend to make us dependents on foreign nations, when we have the means and ability to be independent of the world.

Such are some of the propositions, contradictions, and errors of the report, and your committee believe that they fully confirm the opinion of the petitioners, that its recommendations would be "a most dangerous guide to legislation."

DANIEL J. MORRELL, *Chairman.*

OAKES AMES.

PHILETUS SAWYER.

WORTHINGTON C. SMITH.

STEPHEN SANFORD.

WILLIAM H. UPSON.

SAMUEL P. MORRILL.

VIEWS OF THE MINORITY.

Mr. CLEVELAND, from the minority, presented the following :

The undersigned, representing a minority of the Committee on Manufactures, to whom was referred a number of petitions, asking that an inquiry be made into certain statements contained in the last report of the Special Commissioner of the Revenue, being unable to agree with the report of the majority of the committee, present the following statement as an expression of their views in regard to the questions at issue:

The majority of this committee are of the opinion that the *sole duty* of the Commissioner under the law has been to compile such data as would enable "Congress to legislate understandingly upon all questions relating to the industries and revenues of the nation," and that in doing more than this, he has transcended the powers of his office. Such being their view of his functions, the minority are much surprised that they have taken no exception to the aid which the Special Commissioner rendered to the republican party during the late national election. They think it can hardly be denied that the party relied mainly, if not entirely, upon the data furnished by the Commissioner in the discussion of fiscal questions; and the minority respectfully suggest that the powers of this committee should be so extended as to authorize them to examine into the correctness of the statements and conclusions of the Commissioner, which were so freely furnished, and which were so largely used to the benefit of the dominant party in the late election. *

The majority of the committee also aver, that while it has been the duty of the Commissioner to report upon "the mutual adjustment of the system of taxation by customs and excise, with a view to insuring the requisite revenue with the least disturbance or inconvenience to the progress of industry and the development of the resources of the country," he has seen fit to make recommendations which, if adopted, would, in their opinion, seriously disturb certain branches of industry, and seriously retard development. They also object to the statement of any principles or to the promulgation of any system by an officer whose duty is clearly defined by law to be "to report upon the best method of collecting the revenue;" but in what manner the Special Commissioner could be expected to report upon the best methods of collecting the revenue without stating the principles upon which he would levy the taxes, we are at a loss to know. The law says:

And the said Special Commissioner of the Revenue shall from time to time report, through the Secretary of the Treasury, to Congress, either in the form of a bill or otherwise, such modifications of the rates of taxation or of the methods of collecting the revenues, and such other facts pertaining to the trade, industry, commerce, or taxation of the country, as he may find, by actual observation of the operation of the law, to be conducive to the public interest.

How was he to report "by bill or otherwise," without giving the reasons for the particular bill, or arguments in support of his propositions; in short, how he was to make the report expected from him under the law, without "the promulgation of any system of political economy," to which the majority object, the minority fail to comprehend.

Furthermore, when the owner of the iron furnace, woolen mill, or other special interest, under the plea of protection to industry, assumes the right to tax unduly the merchant, the farmer, and the mechanic for his own private benefit, and who avails himself of his power and influence to assess taxes upon the masses of the people, the proceeds of which are paid into his own pocket, and those of his coadjutors, and do not pass into the public treasury, then we say, it is not only the right but the duty of officers of the government and servants of the people to challenge the exclusive claim to represent the "manufacturers of the country," assumed by a few iron and cloth makers, and to demand of them by what authority they interfere with the industry of the people, and under what pretext they retard the normal development of the country; and any Commissioner appointed under the existing law, who should fail thus to endeavor to relieve the people from onerous burdens, without necessarily impairing the public revenue, would, in our judgment, be derelict in his duty, and prove himself unfit to perform the functions of his office.

How the policy advocated by the majority of the committee, and *not that recommended by the Special Commissioner*, has been and is likely to be still further attended with "disturbance" and "inconvenience" to domestic industries, and how it tends to retard the development of the resources of the country, is well shown by the following illustration, as given in a letter communicated by the Special Commissioner of the Revenue; which letter was recently addressed by one of the proprietors of the "Detroit (Michigan) Bridge and Iron Works," in answer to a question as to the influence of the high cost of pig-iron in the extension of his particular branch of industry—bridge-building at the West:

DETROIT, MICHIGAN, *March 18, 1870.*

SIR: In answer to your question I would say that an iron bridge costs from 60 to 100 per cent. more than a wooden one. If the price of pig-iron bore a fair proportion to its reasonable first cost, such bridges could be well afforded at an increase over wood of say 20 per cent; in which case iron would be universally adopted, and so where one ton is now used, a hundred would be used then. We would then be employing at least ten times as many men as now, and instead of there being one such establishment in this State, there would be a dozen.

Very respectfully,

WILLARD POPE.

R. HAWLEY, Esq.

And, again, when the representatives of the important industry of converting wool into cloth deprecate interference with the special legislation which has been enacted to subserve their particular interests, we assert that it is the duty of the Committee on Manufactures to cease to limit their idea of what constitutes the manufacture of wool to those who simply spin and weave the cloth, and to consider what are the needs

and what the rights of that larger force of manufacturers, who convert the cloth into clothing and other articles.

We therefore affirm that the report of the majority of the committee proves that they have the most limited and insufficient idea of what constitutes the manufacturing interests especially confided to their attention, and that in challenging the right of the Special Commissioner to indicate a general system of taxation based upon the least possible interference with and disturbance of industry, they have assumed the general acceptance by the people of the United States of a policy called "high protective," but which is in fact a system of interference and of privation.

The minority have no tariff theories to promulgate, but claim that they could produce arguments, in good faith, that would reverse both the theories of absolute "free trade," and of "high protection." We know that under a system of absolute free trade, many items of manufacture would continue to succeed in this country against the competition of foreign labor, mainly because of the superior intelligence of the American mechanic; but we also know that very many industries would be destroyed by absolute free trade, and more especially since civil war has increased the taxes of the country so immensely, and habits of extravagance in expenditure have so grown upon the party in power, and burdens have been imposed upon the people of a character so extraordinary, in the frantic efforts of our Secretary of the Treasury to pay off the public debt, so soon after the close of the war, at the very moment when our manufacturing interests and all our national industries, greatly exhausted and still staggering under the weight of these burdens, were looking for relief to this Congress, and asking that the debt might be carried forward till they could gather the strength to meet it; the minority of your committee claim that at such a time, absolute free trade would destroy competition, by ruining American manufactures and giving up our markets to English, French, and German capitalists, for the particular articles in which each are known to excel.

But, on the contrary, the minority cannot agree with the report of the majority of the committee, which would maintain a high protective tariff even to the *entire prohibition* of the greater part of our imports, and leave us without such a healthy competition as would save us from the rapacity of our own capitalists; for the minority accept the proposition that human nature is about the same the world over, and that concentrated capital will assume power whenever opportunity offers; it is the natural enemy of the mass of the people; and the minority are observing with great interest the struggle now going on in this and other countries between capital and labor, and they believe that a "high protective" system of tariff gives capital a great advantage over labor in that struggle; an advantage injurious to the present condition as well as to the future prospects of this country. The minority cannot acknowledge a system to be useful to the country that legislates for special interests, except in rare cases where it can be shown that such

legislation will benefit the whole country, and not benefit such special interests exclusively, as in the case of the high tariff on wool and on manufactures of wool. The enormous tariff on wool is a direct tax upon every poor man's carpet and no benefit to the American wool-grower or to the country, except in the actual revenue received, which has not increased proportionately to the increase of the tariff; it cultivates no interest, inasmuch as *we cannot now and never can* raise the coarse wools used for such carpets, the animals must continue in their native climate in order that the wool may continue to grow coarse and strong. The animals have been brought to this country, but the wool soon grows finer, and it is found that we cannot raise the coarse wool necessary for the carpet manufacturers, yet an unnecessary duty is placed upon it under the pretense of protection to the American wool-grower. Again, in the case of the wool manufacturer, the tariff has been raised till the importation of blankets is prohibited, the government gets no revenue, and our market is closed to a healthy competition. But we shall leave statistics to show the correctness of our views, to be furnished by the Special Commissioner, who has been so rudely attacked by the majority.

Again, in regard to shipping, our tariff laws are such that it is acknowledged that we cannot build cheap enough to compete with foreign-built iron ships, and our laws prevent our ship-owners from buying foreign-built ships, and running them in competition with the foreign ship-owners, so that the whole carrying trade of the ocean that we once held in our own hands, has passed from us, and now, of all the freights gathered upon the seas, we can almost say we get none. They all go to enrich the shipping interests of our great rivals. If our laws could be modified so as to admit foreign-built iron vessels to register for the foreign trade only, say for ten years, till our builders could accustom themselves to the change from wood to iron, which has already taken place upon the ocean, we should find that the money paid out of the country for the ships would all be brought back, and more, in freight money received; and in the competition that would follow, the products of our western farmers would be exported at lower freights, and the whole country receive positive benefit. *No part of the country is benefited by the present illiberal policy* of high protection to the materials, and of prohibition to ready-built ships, because *none are being built for foreign trade*. The following extract from a recent number of the New York Tribune shows the present condition of the ship-building interest in New York City, which some ten years ago gave direct employment in the construction of hulls, rigging, or machinery, to over *thirty thousand* workmen:

The Novelty Iron Works has sold off most of its machinery and tools. The Allaire Works is now occupied as a stable. The Etna Iron Works has ceased to make marine engines. The Fulton Iron Works are for sale. W. H. Webb's ship-yard is to let. Henry Steers's yard is empty. The Continental Iron Works is almost deserted, and green grass is growing in nearly all of the ship-yards which, five years ago, were filled with workmen.

It is also authoritatively reported to the minority of the committee, that when, during the month of April last, a foreign ocean steamer came into the port of New York with a broken shaft, there was not a single fire lighted, or a forge ready anywhere in that great city capable of at once repairing the damages indicated.

In answer to the charge that the Commissioner has not been mindful of that part of his duties imposed by law, which requires that he shall "inquire into the sources of revenue," "the best methods of collecting the revenue," and "the mutual adjustment of customs and excise duties," the minority of the committee have simply to refer to the numerous and copious reports which have been made to Congress by the Commissioner since 1865, either as chairman of the revenue commission or in his present office; to a tabulation and statement of tariffs, (see report of 1866,) which has served as a model for all subsequent work of this character; to the inception and organization of the Statistical Bureau of Commerce and Navigation, now in so high a condition of efficiency; and to the further fact, that nearly every important reform which has been made in the revenue system of the United States since 1865 has been first proposed, discussed, and recommended in the reports of the Commissioner; among which may be mentioned the reduction of the tax upon distilled spirits, and the collection of the taxes upon tobacco by the stamp and package system, by which two improvements, mainly, the public revenues have been increased to the extent of over forty millions per annum, and innumerable sources of fraud dried up; the repeal of the taxes upon raw cotton and crude petroleum, and the cumulative and destructive taxes upon all manufacturing industries; the proposition to collect the tax on fermented liquors by means of stamps; the uniform tax upon cigars; the appointment of supervisors, and many other measures of similar efficiency and usefulness. The minority would not be understood as claiming that all of these measures were adopted because of the Commissioner's recommendation; for they recognize the fact that his recommendations have from the first been opposed and often harshly criticised; but they do claim that the several reports of the Commissioner will show that in the case of nearly every revenue reform effected since 1865, his judgment has anticipated and pointed out the measures which subsequent experience has shown to be desirable or indispensable.

With this general expression of opinion as to the manner in which the Special Commissioner of the Revenue has discharged the duties of his office, the minority of the committee would next ask attention to the following statements which they have received from the Commissioner in answer to, or explanation of, the several charges of mistakes or misrepresentations which have been preferred against him; and they do this for the simple reason that they regard it as only consistent with the principles of justice, that sentence of condemnation should not be recorded before the accused has been afforded an opportunity to be heard in defense:

OFFICE OF SPECIAL COMMISSIONER OF REVENUE,

Washington, May 18, 1870.

GENTLEMEN: I have the honor to submit to you the following specific answers to some of the charges of mistakes or misrepresentations which the majority of the Committee on Manufactures are of the opinion have been made by me in my report submitted to Congress in December, 1869. Had more time and opportunity been afforded me, a much more complete rejoinder to the charges of the majority of the committee could have been made, and a much larger amount of evidence in refutation of many of the statements by them indorsed could have been presented.

The Commissioner does not claim that his reports have been free from mistakes or errors, inasmuch as his investigations, embracing a great variety of subjects and extending over many new fields, have often been most difficult, especially through the absence of proper data, which data, in some instances, as in the case of pig iron, have been refused, even when asked for officially; but he does claim that, in prosecuting his work, he has endeavored to avail himself, in every instance, of the advice and counsel of those who seemed well qualified by experience to aid in forming a judgment; and furthermore, that he has anxiously sought to make such use of his information as appeared best calculated to subserve the interests of the whole country. With these preliminary observations, he would first review the questions involved in respect to the manufacture of pig iron.

THE COST OF PIG IRON.

The statements of the Commissioner, in respect to this industry, which the majority of the committee characterize as untruthful, are to be more especially found in the following extracts from his last report, (page 81:)

The average expenditure requisite to produce a ton of pig iron in the United States at the present time, including a liberal interest upon the capital invested and a fair allowance for repairs and incidentals, may be fairly estimated at from \$24 to \$26 currency.

In regard to this statement, the majority of the committee use the following language:

This means that some pig iron can be and is produced at less rates than those here quoted, which may be true of a few favored localities, or of a few iron districts remote from market, like one in western North Carolina, of which your committee has heard, where negro labor, through lack of other employment, and from other well-known causes, can be obtained for from 40 to 60 cents a day—STARVATION WAGES.

It seems strange that the majority of the committee, while hearing from North Carolina or some other remote locality in respect to the cost of manufacturing pig iron, should have overlooked the very significant testimony of Abram S. Hewitt, esq., one of the best-recognized authorities on the subject of the iron manufacture of the United States; a commissioner on the part of the United States to the department of metals of the late Paris Exhibition, and a practical iron-master of many

years' experience. This gentleman, in his official report, published by the State Department, Washington, 1868, (page 48,) says:

"In the United States the cheapest region for the manufacture of pig iron, extensively developed, is in the Lehigh Valley, in the State of Pennsylvania, where pig iron is produced at an average cost of \$24 per ton."

Here, then, is evidence from an authority which has never been questioned, that the Commissioner was not mistaken in his estimate of the cost of manufacturing pig iron in one of the most important and extensive seats of the iron industry in the country; and it is to be further noted, that, since the date of Mr. Hewitt's estimate, the cost of production in every branch of industry in the United States, by reason of the removal of excessive internal taxation, and from other causes, has been greatly reduced and cheapened.

But the Commissioner has much additional evidence in support of his position, to a portion of which, from the light which it throws upon the whole subject, he would further ask attention.

The following letter, from one of the representatives of the State of Alabama in the Senate of the United States, has much of significance:

UNITED STATES SENATE CHAMBER,
Washington, May 2, 1870.

DEAR SIR: Mr. West, superintendent of Shelby Iron Works, at Shelby, Columbiana County, Alabama, told me last summer that he was sending iron to Philadelphia for \$10 per ton, freight. He also said he was sending iron to Cincinnati and Louisville.

General Wilder, of Tennessee, told me to-day that he was shipping iron from his furnaces near Chattanooga to Indianapolis; and that his iron cost from \$18 to \$22 per ton; and that with ample capital, &c., it could be made at \$15, but that time would be required to do this.

Yours truly,

WILLARD WARNER.

The Commissioner would also ask attention to the proceedings of a meeting of the citizens of Albany, held January 18, 1870, for the purpose of forming an association to engage in the manufacture of pig iron in that city, the same being reported in the Albany Argus of January 19. At this meeting, which was presided over by Hon. Erastus Corning, Mr. Charles E. Sackett presented the following statements of the estimated cost of the manufacture of pig iron in the above referred to location, and also of the dividends paid by pig-iron furnaces in the immediate vicinity during the last three years. He says:

The ores required to make it will cost on an average, delivered here, \$5 75 per ton, and it will take two tons of them to make a ton of iron. Limestone will cost about \$2 per ton, and it will require two-thirds of a ton to the ton of iron. The whole cost of a day's running expenses, including everything from the superintendent down, allowing liberally, will be \$3 50 or \$5 per ton.

We will estimate office expenses liberally at \$10,000 per annum, and fifty cents per ton.

Interest on capital stock, including ordinary wear, tear, and loss, 10 per cent., or \$40,000 per annum.

The great contingency to which furnaces are subject is a stoppage for repairs. It is my opinion that furnaces can be so built and operated by using care, as not to blow out for repairs oftener than once in five years.

In England and Scotland it is customary to run ten and fifteen years. But let us

suppose that we will have to repair once every three years. The cost of so doing will be about \$20,000, but we will set aside \$10,000 per annum for this purpose.

To sum up, a ton of iron costs:

For two tons of ore, at \$5 75.....	\$11 50
For one and one-quarter ton of coal, at \$6 50.....	8 13
For two-thirds ton limestone, at \$2.....	1 33
Labor, per ton.....	5 00
Total.....	<u>25 96</u>

Let us say \$25 96 per ton is the primary cost with large allowances.

We can pay a dividend of thirty-five per cent. on a capital stock of \$400,000.

I have not arrived at this conclusion without liberal allowances in all directions. It is not for one year, but for three or five; and it is verified by the fact that the Hudson Iron Company's works, built in 1851, and which may reasonably be supposed not up to the standard of modern excellence, have paid dividends of forty per cent. for the last three years, and twenty per cent. previously.

Before you is a sample of iron made under my special supervision a few weeks ago at Charlotte Furnace, near Rochester, to test the quality of ores available to us here in any quantity. I can safely say that it is better iron than is often seen in Albany, and would meet all the wants of its consumers.

The furnace at which this sample of iron was made was started in January of last year. They declared last year a dividend of seventeen per cent., and it was submitted at the directors' meeting that there was stock enough on hand and paid for to pay off the company's debt of about \$100,000. The manager told me that this furnace cleared \$50,000 in the first six months of her running.

The following extract of a letter addressed to the special commissioner of the revenue by D. W. Tuthill, esq., who, during the years 1867-'8, was in part manager and proprietor of a well known pig-metal furnace located at Durham, Bucks County, Pennsylvania, also throws much light on this subject.

TROY, N. Y., *January 21, 1870.*

SIR: I have looked over my old memorandum books with a view of writing you, because I am satisfied that the estimate you make of the cost of iron is fully high enough.

I find we made in March, 1867, 985 tons, the cost of which per ton is noted as follows:

Ore.....	\$7 11
Coal.....	10 01
General charges.....	5 27
Total.....	<u>22 39</u>

In April of the same year there were produced 825 tons, as follows:

Ore.....	\$8 18
Coal.....	8 05
General charges.....	5 83
Total.....	<u>22 06</u>

The interest on investment does not form any part of these expenses. My estimate for the iron delivered in New York used to be \$26 per ton. You will notice a difference in the cost of the items at different times. We had sometimes very poor coal. Then if the furnace worked badly the cost would be necessarily increased.

While I was there (Durham) I gathered all the information I could about the cost of producing pig iron on the Lehigh. The ore and wages cost a little more than at Durham, and the coal less. My impression while there was that we produced iron

about \$1 per ton less than the cost of it in the Lehigh Valley. We endeavored to make No. 1, and failing in that was incidental. A lower grade would have been produced for less money.

The company having charge of those furnaces now was organized less than a year ago, with a capital of \$300,000. The stockholders—some of them—have told me they expect to clear the first year, if iron continues at its present price, \$150,000. This, I think, is too high; but I have no doubt they will clear from \$100,000 to \$120,000. I am sure there is no business in the country, of any importance, that pays the profit the manufacture of pig iron does.

I am, yours, most respectfully,

D. W. TUTHILL.

Under date of February 4, 1870, Mr. Tuthill further writes :

Upon reflection, it is but just that I should say, a gentleman connected with one furnace upon the Lehigh, with whom I talked frequently about the cost of making pig iron, always assured me that it cost at his furnace \$28 per ton. A superior quality of iron was manufactured there, and would command in the market a ready sale at a higher price than the Durham iron. I do not blame the makers of pig iron for omitting to reply to the questions in your circular. Were I now interested in the manufacture, I certainly would not answer you. At the same time, I consider the duty on pig iron an enormous burden on the people, for the benefit of less than 10,000 persons who are interested in making this article. Reduce the duty on pig iron and the rolling mills will need less protection.

Again, the report of the "Society for the Encouragement of Domestic Industry in Rhode Island," presented by a committee of which James Y. Smith, the eminent manufacturer is chairman, Providence, January 18, 1860, gives the following as the present cost of production of pig iron in that state.

Iron ore, three tons.....	\$7 50
Rhode Island coal, one ton five hundred weight.....	4 37
Limestone, five hundred weight.....	1 00
Interest on works.....	2 00
Labor, management, &c.....	5 00
Office charges.....	2 50
United States money.....	<u>22 37</u>

Under date of May 18, 1870, an United States assessor of internal revenue for one of the districts of southern Ohio, thus writes to the office of the Commissioner: "The whole number of iron furnaces in southern Ohio is thought to be one hundred, and the business is probably on the increase. It is claimed that iron can be produced at less cost here than in Pennsylvania, or even in Wales. The cost is being reduced to something less than \$23 per ton."

The Commissioner is also authorized by Messrs. John Roach & Sons, of the Morgan Iron Works of New York City, to say that, in the course of some business negotiations carried on during the past year between them and the agent of the Reading Furnace in Pennsylvania, the latter stated, as evidence of ability to fulfill certain conditions of contract, that the cost of the pig iron manufactured by the Reading Furnace, as borne on the books of the company, did not exceed \$25 per ton.

The Commissioner submits that it is not reasonable to suppose, in the

face of this direct and uncontradicted evidence, that the actual cost of making pig iron in the anthracite regions of Pennsylvania, where the best coal in the country is provided at the smallest cost, and where supplies of iron ore are in close proximity, can be in excess of that estimated by the Commissioner, and in excess of that incurred in other more remote and less favorably situated localities.

But in further support of his estimates the Commissioner presented additional evidence, on the authority of Mr. Waterhouse, of St. Louis, acting as agent of the State of Missouri, to the effect that the average cost of making pig iron at Youngstown, Ohio, and at Carondelet, Missouri—two widely distant localities—was not in excess of \$25 per ton.

As the accuracy of these statements, however, has been denied, it is well to inquire as to the character of the evidence presented by Mr. Waterhouse, and the warrant the Commissioner had for accepting the same as trustworthy. And it appears, first, that it is not questioned that the parties representing, in the one case the iron interest of the Mahoning Valley, Ohio, and in the other that of Carondelet, Missouri, did explicitly and unqualifiedly give to Mr. Waterhouse the estimates quoted by the Commissioner, did allow them to be published in an official document of the State of Missouri, and did allow them to go unchallenged until after the publication of the report of the Special Commissioner. Now, however, Mr. Charles McNair, representing the Carondelet works, of Missouri, and Messrs. Brown, Bonnell & Co., of Youngstown, Ohio, make haste to say that they were mistaken in their estimates given to Mr. Waterhouse, and that the cost of manufacturing pig iron was not as they then represented. But, in view of these contradictions, it is interesting to note what was the actual correspondence which took place between Mr. Waterhouse and the parties representing the iron interests in question.

In February, 1869, Mr. Waterhouse addressed a note to Mr. McNair, secretary of the Carondelet works, asking for information in respect to the cost of making pig iron at his establishment, in which he (Mr. Waterhouse) states that he used the following expressions :

"I desire that my assertions should be the *absolute truth*. But I would rather *over-state* than *under-state* the cost of making a ton of pig iron." And again, in the same letter, he says my anxiety for accuracy led me to repeat the caution, "Give me no statement that cannot be absolutely demonstrated, for I am not willing that any man shall be able to disprove my assertions. Therefore, state the cost of making one ton of pig iron *more*—rather than less—than the actual cost."

In answer to this application, Mr. McNair replied as follows :

OFFICE OF CARONDELET IRON WORKS,
Carondelet, Missouri, February 17, 1869.

DEAR SIR : I hand you the inclosed statement of the cost of one ton of pig metal, taken from my report of last week's *actual working*.

MATERIAL AND COST OF ONE TON OF PIG IRON.

1. 50 tons Iron Mountain ore, cost, \$5 50 per ton.....	\$8 25
1. 22 tons Big Muddy coal, net cost, 5 25 per ton.....	6 40

.30 tons Connellsville coke, net cost, 9 00 per ton.....	\$2 70
.37 tons limestone, net cost, 90 per ton.....	33
.08 tons mill-cinder, net cost, 2 50 per ton.....	20
Labor.....	5 50
Interest on investment, expenses, and taxes.....	1 50
Clay, sand, &c.....	12
	25 00

This is not an overestimate.

You will also observe, by estimating the weight of coke at one for two in coal, that the actual consumption of coal is only 1.82 tons to the ton of metal—much less than your estimate. The only chance to reduce this cost is in the items of labor, expenses, interest, &c. I think a furnace may be constructed so as to economize in these items, say \$1 to \$1 50 per ton of metal, making the lowest cost at present prices of material not less than \$23 50 to \$24.

We are making eighteen tons daily, *now*.

I believe the above answers all your questions. It would be more satisfactory to talk to you than write, and you might run down here any afternoon at 4 o'clock and return by 6.30, and get all the information you want.

Very truly,

CHAS. A. McNAIR,
*Secretary Carondelet Iron Works.**

Professor S. WATERHOUSE,
Washington University, St. Louis, Missouri.

And Mr. Waterhouse, in his published defense of the estimates by him given to the Special Commissioner, further adds:

We have the assurance of Mr. McNair that the foregoing exhibit is "taken from his report of last week's *actual working*. This (the cost of production) is not *overstated*."

* It must not be forgotten that in this statement of the cost of making pig metal at Carondelet, although Mr. McNair thinks that "the only chance to reduce the cost is in the items of labor, expense, interest, &c.," there are two very large items, the amounts of which are based upon a very large profit to somebody.

Iron Mountain ore is put down as costing \$5 50 per ton. This ore is carried by rail ninety-one miles, at an expense for freight of say three cents per ton per mile, (about twice the average price at which such freight can be profitably handled,) the freight amounting to \$2 73 for the entire distance. The cost of mining may be put at seventy-five cents per ton, which is stated to be about the average price. The actual cost to the operator is therefore \$3 48 per ton; leaving a profit to somebody on a ton of ore of \$2 02. Hence the profit charged into the cost of one ton of iron (which requires one and a half tons of ore) is \$3 03.

Big Muddy coal, net cost, \$5 25 per ton. This coal is towed from a point below, on the Mississippi, at a cost, as the Commissioner is informed, of seventy-five cents a ton, which leaves \$4 50 for the cost of a ton of coal on the river bank. The coal is raised at a point twelve miles from the river, and cannot cost at the pit's mouth over \$1 50 per ton. The cost of freight, twelve miles of down grade, may be put at thirty-six cents, making a total cost of \$1 86, and leaving a profit to somebody of \$2 64 on each ton of coal; and on 1 $\frac{22}{100}$ tons of coal, the amount required for one ton of iron, a profit of \$3 22; so that, in addition to the other items of "labor, expense, interest, &c.," should be reckoned \$3 03 on the iron ore, and \$3 22 on the coal, together, \$6 25—about one-quarter of the cost of a ton of iron, which lie hidden in the shape of profits in the table of first cost, and which must be entirely absorbed before the industry will be abandoned as unprofitable.

The same elements of profit are included in the cost of iron at Youngstown, though the price and amounts of profit on iron ore and coal are undoubtedly different.

As it appears from the context that the word "*overstated*" is here used in the sense of *understated*, the obvious meaning of the last sentence is that the cost of manufacture did not exceed the given amount. And as my consultations with the secretary of the Carondelet Iron Company had extended over a period of several months, it was justly presumed that the expenses of the given week fairly represented the average cost of making a ton of iron at the Carondelet works.

J. O. D. Lilly, esq., was one of the managers of the Carondelet Iron Company, prior to the transfer of the works to the present proprietors. He informed me that, owing to the defective condition of the furnace, the cost of making iron had been \$26 per ton, but estimated the cost, when certain improvements had been made, at \$24 77 per ton. As my chief reliance was based upon the information subsequently obtained from Mr McNair, the details of this calculation were not preserved. Mr. Lilly also avowed his belief that "with larger furnaces, with better coal, (that is, freer from dirt and in larger lumps,) and with two stacks, which can be worked with greater comparative economy than one, pig metal can be made at Carondelet for \$22 per ton.

This declaration was taken from his lips and then read to him for correction. As he made no alteration, the statement stands with his express sanction. At the time that Mr. Lilly expressed this opinion, the works at Carondelet, then partially under his supervision, had already manufactured seven hundred tons of pig iron. Hence his statement was not made without the light of experience. The furnace was subsequently repaired, and better adapted to the economic production of iron.

Furthermore, after the pamphlet containing Mr. McNair's estimates were put in type, Mr. Waterhouse states, that—

The proof-sheets were privately submitted to the criticism of Messrs. Jules Valle, Giles F. Filley, Edwin Harrison, and Joseph P. Card. Their intelligence, integrity, business success, and practical familiarity with iron making entitle the judgment of these gentlemen to the highest consideration. After a careful examination, a few corrections were made in other parts of the article, but not an objection was raised to Mr. McNair's exhibit, nor a figure changed in the elements of cost. Two of the above-named gentlemen dissented from the statement that it cost \$25 a ton to make iron at Carondelet, on the ground that it was an *overestimate*. With this exception, there was a unanimous concurrence in regard to the cost of manufacture.

The letter addressed by Messrs. Brown, Bonnell & Co., to Mr. Waterhouse, reads as follows:

OFFICE OF BROWN, BONNELL & CO., MAHONING WORKS,
Youngstown, Ohio, July 8, 1868.

DEAR SIR: We are just in receipt of a letter from our friend, W. O. Forrest, esq., St. Louis, together with a few lines attached from yourself. We have pleasure in replying to the question proposed.

In our manufacture of pig metal we use about three-fourths of Lake Superior and one-fourth of native ore to the ton of pig. The lake ore costs, delivered at our furnaces, about \$9, and the native ore, which is found around us, \$3 per ton. Black-band ore is mined in considerable quantities, and which, when roasted, yields a good percentage—say fifty per cent.—at a cost of \$5 per ton. The coal we use is of excellent quality for making iron, being free from hurtful extraneous matter, a pure carbonaceous coal, which we get from our own mines, bringing it by railroad about six miles to our works, and costing about \$2 or \$2 50 per ton. It takes two and a quarter or two and a half tons of coal to reduce one ton of metal. The limestone used as a flux we get delivered to us at \$1 12½ per ton, and the whole cost of making one ton of pig metal is about \$25.

Should you ever visit this region, we shall be pleased to see you and give any additional information in our power.

Very respectfully,

BROWN, BONNELL & CO.

Professor WATERHOUSE.

One word further as to this correspondence. It may be all right and proper for Messrs. McNair and Brown, Bonnell & Co., finding their statements used for a purpose that they did not anticipate, to come out, after allowing their letters public circulation for a twelve month uncontradicted, and say they were mistaken, and did not fully understand what they had been talking about; but it does not seem equally fair to charge upon the Special Commissioner ignorance and misrepresentation because he *availed himself*, in making up his estimates, of the statements of large manufacturers, the truth of which, up to the time of so using, had never been questioned in even the smallest particular.

Another authority quoted by the Commissioner in support of his estimates of the cost of manufacturing pig iron was Mr. George T. Lewis, of Clarksville, Tennessee, a gentleman whom the Pottsville (Pennsylvania) Miners' Journal, under date September 2, 1869, indorsed as one of the most intelligent and experienced iron-makers of the Southwest. The statement of Mr. Lewis was to the effect that—

On the line of the Nashville and Chattanooga railroad, pig iron can be made *and delivered* in Nashville at a cost of nineteen dollars per ton, currency; and in the city of Nashville itself, including interest on capital and incidentals, at \$22 60, currency, per ton.

In regard to these estimates of Mr. Lewis, the majority of the committee say that they "*find, upon investigation, that neither the figures nor the reputation as an iron manufacturer of Mr. Lewis are entitled to the consideration the Commissioner has accorded to them. Mr. Lewis has had experience as an iron manufacturer, but not even his warmest eulogist will assert that he has been a successful manufacturer. The committee find that he has been the very reverse of successful. Next, they find that, when Mr. Lewis made the estimate which the Commissioner quotes so prominently, he had purchased, or was about to purchase, some iron and coal lands on or near the Nashville and Chattanooga railroad, and greatly desired to secure the co-operation of capitalists in their development. Of course he made as favorable an estimate as possible, and advertised it in the newspapers. Even then, however, it is manifest that he referred to stone-coal iron, and your committee would not do him the injustice to suppose that he meant to create the impression that charcoal iron can be produced on the line of the Nashville and Chattanooga railroad at nineteen dollars a ton. Nor do they believe that he conceived it possible to make even stone-coal iron in any other locality than the one he was specially interested in commending to the attention of capitalists as cheaply as nineteen dollars a ton, including freight to Nashville.*"

In reply to this statement, the Commissioner appeals to Mr. Lewis himself, and for that purpose submits the following extract from a letter addressed by this gentleman under date of April 19, 1870, from Clarksville, Tennessee, to Hon. James A. Garfield, House of Representatives, Washington, D. C.; in which, after repeating the statement respecting the cost of manufacturing iron in the Southwest, referred to in

the report of the Special Commissioner of the Revenue, he uses the following language :

I reaffirm, sir, everything stated in my letter as a true state of facts, which may be contradicted, but cannot be disproved. I had examined with care the iron and coal lands in the section referred to, and in comparing them with the iron districts of Pennsylvania, upon the Lehigh, Schuylkill, and Juniata Rivers in the east, and those upon the western slope of the Alleghanies, and the iron sections of Ohio, Indiana, and Lake Superior, which I had before visited for information, the advantages of the former over the latter were so apparent that "he who ran" could see.

The letter was written, sir, to make known to capitalists and practical men the facts in regard to the rich deposits of coal and iron ore in the States named, not to advertise coal lands or theorize, as stated by Hon. John Scott, of Pennsylvania, in a speech before the Senate, nor to affect the tariff on iron, as insinuated by some.

And these mines of wealth in the Southwest are not "in some inaccessible regions in Alabama and Georgia, where the Almighty has placed coal, ore, and limestone in close proximity," where "it is conceded that pig iron can be produced cheaper than in the bituminous coal region of this State (Ohio) and the anthracite district in Pennsylvania," as stated in a letter addressed to you, sir, by J. G. Butler, jr., esq., of Youngstown, Ohio, they abound in the valleys of the Tennessee, Cumberland, Sequatchie, Coosa, Alabama, Black Warrior, and Cahaba—from the Virginia line, through the States of Tennessee, Georgia, and Alabama to Mississippi; "Inaccessible regions" indeed! Why, sir, the East Tennessee and Virginia, Knoxville and Kentucky, Nashville and Chattanooga, Winchester and Alabama, Alabama and Chattanooga, North and South, and other railroads, are almost walled in by iron ore, coal, and limestone, which the God of Nature has bestowed with a lavish hand upon this favored country.

And pig iron can now be made in Tennessee, Georgia, and Alabama, and delivered at Louisville at a cost of \$22, Cincinnati \$23, and Pittsburg \$23, per ton.

Very respectfully, your obedient servant,

GEO. T. LEWIS.

Hon. J. A. GARFIELD, *Washington, D. C.*

Attention is also asked to the following extract of a letter addressed, in the month of February last, to the editor of the Cincinnati Gazette, by W. H. Powell, general superintendent of the Clifton Iron Works of Ohio, in which the writer, after discussing the recent market prices of pig iron, says :—

It is very true, as has been claimed, that at the present prices of pig iron in the West, the entire rolling-mill, nail-factory, and foundry interest are completely paralyzed and rendered unremunerative, while the furnace interests have, beyond all possible contradiction, paid enormous dividends.

In commenting on the above, the editor of the Gazette remarks :

We may state that several of the leading furnace men in Ohio have stated to us that a reduction of the duty on pig iron from \$9 to \$6 per ton would be satisfactory; yet when they meet in convention these men resolve that \$9 per ton is necessary, and denounce those in favor of \$5 or \$6 tariff.

The Commissioner therefore submits that the presentation of the above evidence is a sufficient vindication against any charges which may be brought against him of misstatement, inaccuracy, or a lack of due effort to obtain correct information; and especially when it is remembered that out of a large number of official circulars sent by the Commissioner to iron masters in all sections of the country, asking for information,

few or none were acknowledged and answered, and the desired information furnished. And he would also add that any amount of testimony, that there are places at which the cost of making pig iron is greater than he has shown, is entirely irrelevant. That under the exaggerated prices and extravagant protection of past years iron has been profitably made at a cost much exceeding what I have stated, is undoubtedly true. But is it for the interest of the country to protect, encourage, and perpetuate such a waste of labor as is implied? Clearly, whether we look at the economic interests or the necessities of the nation in time of war, the interest of the country is to have its iron as well as its other products secured by the least possible amount of labor. I have shown that in numerous and widely separated positions pig iron can be and is produced at a price not in excess of \$26. If there are other now flourishing establishments that cannot produce at that cost, their days are numbered. The struggle for life will destroy them with or without protection. It is the simple law of progress, and it is in vain to struggle against it. As well might the Indian demand that the vast prairies of the West should remain unsettled, because settlers drive off the buffalo, and on the buffalo depends the life of the Indian, as that man should demand protection in the production of an article of prime necessity at a useless and wasteful cost of labor. In fact, gentlemen, the more you accumulate evidence that you are expending too much on the production of your commodity, the more evident you make it that you do not deserve protection. The country cannot afford to *protect* you in wasting labor or employing it unskillfully.

FREIGHTS ON PIG IRON.

The report of the majority of the committee also contains the following specifications:

In further illustration of the unreliability of the Commissioner's statements concerning pig iron, your committee call attention to the following passage to be found on page 83 of the report:

"It is also to be noted that, if the duty on pig iron were entirely removed, the American producer in the interior would still enjoy a protection in the cost of transportation *to the extent of at least \$1 50 per ton for every one hundred miles* that intervene between the place of production and a port of entry, which circumstance renders the transport of a single pound of foreign pig iron to any considerable distance into the interior *a matter of ordinary commercial impossibility.*"

One answer to be made to this charge of unreliability on the part of the Commissioner is to be found in the fact, that practically there has not been for years a ton of foreign pig iron, of the quality that competes with the American product, moved into the interior; the pig iron imported being mainly or exclusively Scotch pig, an inferior article, required by stove founders and malleable iron workers for mixing, by reason of its greater fusibility; a variety not produced in the United States, and

which would doubtless continue to be imported were the duty increased above its present rate.

The majority report of the committee, however, endeavors to sustain the charge of unreliability against the Commissioner by showing that pig iron has been moved from New Orleans to St. Louis for \$3 per ton, up the Mississippi; from New York to Chicago for \$5 50 to \$6; and from Montreal, via the lakes and rivers, for \$2 50 per ton, gold. Now the legitimate inference which the majority of the committee seem to desire should be drawn from these statements would appear to be, that because pig iron has been carried up the Mississippi to St. Louis for \$3, and from New York to Chicago for \$6—transportation exclusively by water or on great trunk lines, subjected to severe competition—therefore it can be distributed over the whole country for substantially the same rates. But a very limited inquiry of any railroad, coasting vessel, or steamboat, would show that such an inference is not correct, and that, apart from the movement under certain exceptional circumstances, the statement of the Commissioner is correct. Thus it costs what he represents to move pig iron from the Pennsylvania iron districts to Philadelphia or New York; from New York into the interior of that State, or to Boston; from Boston into the interior of New England; or from Chicago or St. Louis into the interior of Iowa, Missouri, Illinois, or Indiana. The report of the majority of the committee itself shows that the cost of transporting pig iron from the Mahoning Valley to Pittsburg, a comparatively short distance, less than one hundred miles, averages \$2 17 per ton; and it also quotes approvingly the estimate of Mr. Lewis, that it costs \$4 to \$5 per ton to move pig iron all the way by water from the Cumberland River to St. Louis; and \$12 40 from furnaces in Alabama to St. Louis. The majority of the committee also make no mention of the fact that even on the great trunk freight lines of the country the rates charged for freight are exceedingly variable; freights during the last year between New York and Chicago having fluctuated between \$5 and \$37 60 per ton; and between the same point and St. Louis between \$7 and \$46; while within the last three years the Erie railway has carried goods to Chicago at as low a rate as \$2 per ton, and from this bounded back to \$37.*

In short, the legitimate inference to be drawn from the statements and statistics presented by the majority of the committee would seem

*The following table shows the rates of freight charges per hundred pounds as arranged for the present season between Boston and New York and the various points at the West:

	From Boston.	From New York.
To Chicago.....	\$1 10	\$1 50
To Cincinnati.....	1 05	1 42
To Louisville.....	1 27	1 72
To St. Louis.....	1 25	1 91
To Cleveland.....	75	1 01
To Detroit.....	80	1 08

to be that the cost of moving heavy freights of foreign importation from the sea-board into the interior, over distances varying from one hundred to two thousand miles, and over all possible routes and by all the varied means of transportation, is so inconsiderable and trifling as to add comparatively nothing to the cost of the article as originally imported; a proposition which on its face is too preposterous to require serious contradiction and refutation. But in order that the refutation of such an assumption, and also the refutation of the statement of Mr. A. B. Meeker, that Scotch pig iron is as a rule transported from the seaboard to Chicago for from \$2 25 to \$5 per ton, may be made complete, the Commissioner here gives the quotations of Scotch pig iron in New York and in Chicago for May 17, 1870:

	New York.	Chicago.
Scotch pig: No. 1. Gartsherrie.....	\$35	\$45
No. 1. Glengarnoch	33	44

WEBBING.

An elaborate table has been made to show, not that the Commissioner desires the duty on this article lowered, but that, through inconsistency and want of facts, he recommends a specific duty, which raises the rate over the existing tax, varying from 220 to 360 per cent.

The following from page cxxii, of the report of the Commissioner, exhibits what he said on this subject:

India-rubber, cotton, and silk webbing.—This article, used mainly in manufacture of boots and shoes, is imported largely from England and Germany, and is produced to but a limited extent in the United States. The duty at present levied on cotton and India-rubber webbing is thirty-five per cent. ad valorem, and on silk and India-rubber webbing 50 per cent. ad valorem. With these duties it is the opinion of the appraisers that undervaluations are most extensive and difficult of detection. A change, therefore, is most desirable, and the following specific rates, prepared for the Commissioner by experts in this business, are herewith submitted.

It thus appears that the Commissioner did not recommend a lower duty, but simply a change to a specific duty, and in justification of the accuracy of his recommendations, he submits an invoice, with dates and figures, as it actually passed through the custom-house of New York in the month of May, 1870.

Copy of Invoice.

BATH STREET, NOTTINGHAM, ENGLAND,
April 14, 1870.

LAING & MAGINNES, Philadelphia,

Bought of A. TOLLEY.

[L. & M.]											
P.		2									
Pcs.	in.		yds.	s.	d.	f.		£	s.	d.	
12	5	No. 173 silk	327 $\frac{1}{4}$	at	3	1	0	50	10	7	
6	5	173 "	126 $\frac{3}{4}$		3	10	0	24	8	3	
18	5	194 cotton	510 $\frac{1}{2}$		2	2	0	55	6	1	
5	5 $\frac{1}{2}$	184 "	145		2	4	3	17	7	5	
11	5	187 "	333		2	4	2	39	10	10	

Pcs.	in.		yds.	s.	d.	f.	£	s.	d.
1	5½	No. 187 cotton	24 at	2	4	2.....	3	3	0
4	5	171 "	117½	2	3	2.....	13	9	3
2	5½	171 "	43	2	6	1.....	5	8	6
5	5	191 "	138½	2	0	0.....	13	17	0
8	5	190 "	235¾	1	9	0.....	20	12	7
							243	13	5
Discount 20 per cent.....							48	14	8
							194	18	9
Discount 2 per cent.....							4	17	6
							190	1	3

It will thus be seen that the average price of 5-inch cotton webbing in this invoice is 2s. 2d. 2f. a yard, or 50 cents, which at 35 per cent. duty *ad valorem* is 17½ cents a yard. The discount of 20 per cent. has been always thought very problematical; and, above all, it has been stated to the Commissioner by experts, that if placed under oath they could not define the price of webbing by 6 or 7 cents a yard.

It therefore appears, from evidence which cannot well be controverted, that the recommendations of the Commissioner of a specific duty are truly an equivalent of the 35 per cent. now charged, and that the same have been made in the interest of the revenue. And, furthermore, it would clearly seem that the statements in the elaborate tables submitted by a majority of the committee were prepared for a special and designed purpose and do not represent a fair average of imports, the proof of which will appear upon an examination of the samples of the above referred-to invoice, which have been preserved and can be examined in the office of the Special Commissioner of the Revenue.

The Commissioner, of course, cannot pretend to have correct knowledge personally in all matters of detail. In this instance, as in many others, he has, in the application of principles to a particular case, relied upon experts, sworn officers of the government; and in reviewing this particular case, notwithstanding the criticism of the committee, he sees no reason to change the recommendation which he based upon information so derived. And he would further add that in this judgment he has the concurrence of some of the best appraisers employed at the custom-house.

COTTON MANUFACTURE.

The majority of the Committee on Manufactures having further seen proper to embody in their report a letter signed by *four* cotton manufacturers of Boston, Massachusetts, under date of March 28, 1870, assailing the estimates made by the Special Commissioner in his report in respect to the value of the cotton manufacturing interest of the United States, both intrinsically and as compared with the value of the agricultural product of the country, the Commissioner desires to file as a rejoinder thereto the

following answer and vindication, which he caused to be published shortly after the above-noticed exceptions to that part of his report were made public. The original letter of the *four* cotton manufacturers having been first published in the Boston Advertiser, the reply of the Commissioner was addressed to and published by the same journal:

WASHINGTON, *April* 25, 1870.

GENTLEMEN: I have received, by the kindness of a friend, a copy of a letter to the chairman of the Committee of Ways and Means, signed by four gentlemen, cotton manufacturers, in which a portion of my late report as Special Commissioner of the revenue service is severely criticised. The document bears date March 28, but has not come to my notice until now.

The chief point of complaint which is made against me is that I have overstated the value of work done upon farms, and in the process of agriculture, and that I have understated the capital invested, and the value of the results of the labor employed in the spinning and weaving of cotton; and that they (the cotton manufacturers) are made to suffer by the comparison.

To this I reply that the problem before me was to estimate the value of the total product of the country; the proportion of such value created by the labor of different classes of producers, and the relation of each to the other.

Objection is made to the estimate of the value of the farm product, and it is alleged that I have taken the gross value and have added thereto a large sum for the cost of transportation, but have not deducted the cost of seed and manure.

I will premise that my valuations were all designed to exhibit the value at the first point of distribution, not at the ultimate point of distribution to actual consumers; and that these valuations were obtained from the best available authority.

Now, as the seed and manure are mainly produced upon the farms, and since as much is carried over to the year ensuing as is brought over from the year preceding, I cannot admit that any such deduction should be made; and I believe the valuation of the farm products as stated by me to be the value of the product of labor of the year.

Objection is also taken to the valuation per cotton spindle assumed by me, viz, \$20. But in this estimate it was not my intention to include any cash capital, as the cash would be equally useful in any other employment; and also because, had I so added the cash capital to the assumed value of the spindles, it would have been equally proper for me to have added to the value of the farm product the interest upon the cash capital required in the cultivation of the farms and also the capital required by the merchants engaged in the distribution of the agricultural products.

It is also claimed that I should have added to the cotton-mill product and valuation the value of the work done in machine shops, bleacheries, print works, dye works, and other subsidiary employments; but the recognition of this claim would have rendered it necessary, for the purpose of comparison, that I should have also added to the value of the farm product the work of all the makers of farm tools and implements, and the subsidiary employments of grinding flour and corn, packing beef and pork, manufacturing tobacco, malting barley, tanning hides, and other employments subsidiary to farm work. Had this been done, it does not appear to me that the relation of the value of the cotton manufacture to the farm product would be thereby materially changed from that which I have presented.

It is further alleged that certain valuations of cotton product made in 1868 were ready to my hand, but did not "comport with the theory elsewhere advanced and repetitiously dwelt upon, that the manufactures of the country are of comparatively small importance."

My answer to this is, that I utterly deny any such theory. On the contrary, my earnest desire is that all manufactures should be allowed an equal and a fair opportunity for development; but when three or four branches of manufactures out of many hundreds arrogate to themselves the exclusive title of "manufactures," I deny their

right. The makers of clothing are as truly manufacturers as the makers of cloth; the steel users are as truly manufacturers as the steel makers; the railroad is as much a productive power as the pig-iron furnace; the mechanic as much a manufacturer as the owner of a cotton mill. Let each have an equal right and be entitled to legal protection without discrimination, and it is my belief that by such an equality and free opportunity, the country will most readily secure the most rapid and prosperous growth, and the greatest diversification in its industry.

But to return to the case in hand. The value of \$20 per spindle was arrived at after consultation with many experts, in different sections of the country, and after a full consideration of the tax valuations in different States, and of the market prices of factory stocks. It must stand or fall upon the judgment of those who are more fully informed than I am.

Again, it is represented that I have stated the gross value of the cotton product at \$184,000,000, and that this valuation is unwarrantably low; but it is not stated that I added an additional sum of \$31,415,000 for transportation and distribution. Now, I intended by this to add such a sum as would compensate for what I added to the price, at the farm, of the farm product, for the primary work of transportation and distribution; and with such an addition, my gross valuation of cotton products rises to \$215,415,000. The valuation of my critics is \$247,187,500; but as they include dyeing, bleaching, and printing, which it is perfectly apparent that I did not intend to do, the two valuations are not very inconsistent. I cannot see, however, why it would not be equally proper to add the value of the work done by seamstresses and needle-women upon the cotton cloth, and of the butchers, bakers, brewers, &c., to the value of the farm product, as to add to the plain cotton fabrics the value of the work imparted to them by the bleacher and dyer.

And furthermore, it should be noted that the value of the work of the machinist, the dyers, the bleachers, the printers, as well as of the seamstresses, the butchers, and the bakers, is included in my estimate of the work done by artisans, mechanics, laborers, and other persons who were not embraced in the several industries which were specially considered.

And as a further answer to the charge of unfairness in neglecting to include in the valuation of the cotton manufacture the product of bleacheries, dye works, and the like, it may be said that these latter branches of industry can be carried on equally well in the United States, if not a pound of yarn was spun or a yard of cloth woven in the country; and that in nearly all the manufacturing countries of Europe the occupations of making cloth and of afterward bleaching, dyeing, or printing the same, are almost invariably disconnected, and are treated and returned in all statistical inquiries as separate and distinct industries, as much so as the manufacture of paper and the printing of books, or the grinding of grain and the making of sacks or barrels. Had the data been available to me for estimating the capital, number of persons employed, and value of work done in such establishments, I should have included such a statement in my estimates; but such data are not available either to the officers of the Cotton Manufacturing Association, or to any other persons; and to include them at any fixed amount, as my critics have done in their estimate of the cotton manufacture, is simply to assume without knowledge.

In short, my endeavor in all these statements was to compute the value of the work done by special classes so far as their number and the value of their work could be ascertained; and from the data furnished by the "iron and steel," the "wool and woolen," and the Cotton Manufacturers' Association reports, this seemed to be possible in respect to these particular branches of industry, and was performed to the best of my ability.

It is not pleasant to meet the imputation that I have endeavored to pervert such data to the detriment of these several great branches of industry; but I know full well, at the same time, that in such imputations I simply take and must accept my share of misrepresentation and abuse with all other public servants whose course of duty leads or compels them to oppose the wishes of the advocates of special and powerful interests.

In regard to the complaint that I have misrepresented the condition of laborers engaged in certain special branches of industry, I have simply this to say: that I have submitted no representations which are not warranted by the official figures or reports furnished on application to the proper authorities, State, municipal, or corporate; that it is one thing to denounce these figures and reports, and another to confute them; and that I have made no statement in respect to the laborers engaged upon any industry so bad as that preferred in the report of the State officials of Massachusetts, concerning the special industry of my critics; in proof of which reference is respectfully made to Massachusetts Senate Document, No. 44, January, 1869, and to the report of the Bureau of Statistics of Labor, Mass. Public Document, March, 1870, p. p. 406, 407*

That all branches of industry are entitled to the equal care and protection of the government, and to equal rights before the law, is my profound conviction; but, on the other hand, it is constantly alleged that a few special branches of industry should be specially fostered and protected, and mainly for the reason of the great consumption of farm products by the operatives employed in such industries. I have endeavored, in the course of my official work, to investigate this assumption, and to strip it of any fallacies with which it may have become invested. But if in such investigations I have underestimated the number of persons actually employed in cotton and woolen mills, (and not in subsidiary employments,) in iron mines and iron works, in the manufacture of boots and shoes, upon farms and in other employments, or have placed at too low a figure the annual value of the work of each laborer; if these underestimates can be proved, I can only profess a most cheerful readiness to acknowledge my mistakes and to make the necessary corrections.

I am, yours, most respectfully,

DAVID A. WELLS.

To the EDITORS OF THE BOSTON DAILY ADVERTISER.

WOOL AND WOOLENS.

“On these important interests, or rather these two branches of one great interest,” says the report of the majority of the committee—

We find valuable facts in a pamphlet entitled “Remarks on that portion of the Re-

* “Certain parties have been called the great manufacturers of New England, and they have been engaged as such for generations, yet the man or the family that has been in their employ and come out of it with more than enough for a decent interment is yet to be found.

“The principle of slavery,” disguise it as we may, “has always existed, and always will. The manufacturer will pay his help as little as possible, and keep them to work as closely as possible, and all he intends they shall have is enough to feed them, to clothe them, and to keep them in heart as long as he can profitably use them, and then, the supply having answered the demand, they may go their way.

“The result is a helpless crowd of workers, the oppression of low wages, inevitable poverty, and a disguised serfdom, a rich master, a poor servant, and a mean population. Such is the story of manufacturing in Old England.”—Report of the Hon. H. K. Oliver, Deputy State Constable, Commonwealth of Massachusetts, Senate Document No. 44, 1869.

“In the report of the Bureau of the Statistics of Labor of the State of Massachusetts, presented to the legislature of that State, March, 1870, there is given, on pages 406 and 407, an elaborate table, showing the receipts and expenditures of *thirty-five* families, embracing *one hundred and fifty-four* persons, engaged in the occupation of manufacturing in the State of Massachusetts. The condensed summary of the same, illustrative of the condition of these families, is given on page 407 as follows:

“Total number of families, 35; total number of persons, 154; average to a family, 4.4; average expense of family, \$701 20; average earnings per family, \$683 59; loss per year to each family, \$17 61.”

port of the Special Commissioner of Revenue for 1869, relating to Wool and Woolens," addressed to the chairman of the Committee of Ways and Means of the House of Representatives. It is prepared with evident care and accuracy, and signed by the executive committee and the able secretary of the National Association of Wool Manufacturers, Mr. John L. Hayes, of Boston.

As the statements of Mr. Hayes are then quoted with approval by the majority of the committee, and at length, with a view of disproving or refuting the position and statistics of the Special Commissioner, the latter regards it as simply fair and right that he should also present the answer which a large number of the most experienced woolen manufacturers of the country, representing forty-three corporations or individuals, over *five hundred* sets of machinery, and a capital of over *fifteen millions of dollars*, have chosen to make voluntarily to the pamphlet of Mr. Hayes referred to. This answer reads as follows:

To the Committee of Ways and Means of the House of Representatives, and the Finance Committee of the Senate of the United States:

GENTLEMEN: Hon. David A. Wells, Special Commissioner of the Revenue, has made his report for the year 1869, which report the undersigned believe to be honest and truthful, and which bears evidence of great ability and deep research throughout. But we are more particularly interested in that part of said report which relates to the tariff on wool and woolens.

We have also seen a pamphlet entitled "Remarks upon that portion of Commissioner Wells's Report relating to Wool and Woolens," January, 1870, by John L. Hayes, esq., secretary of the executive committee of the (so-called) National Association of Wool Manufacturers.

This association, in whose behalf the gentleman assumes to speak with such authority, we believe never embraced one-half the wool manufacturers of the country. To-day, we venture to say, the number represented is less than one-third. It is, perhaps, not too much to say that the association does not in any way represent the real opinions and wishes of the great body of wool manufacturers. Its executive committee may reflect the sentiments of the carpet and blanket manufacturers. No one doubts they do. But beyond this we deny their authority to speak for the wool manufacturers, and challenge the production of any proof of such authority.

Speaking in defense of the tariff on wool and woolens of 1867, Mr. Hayes remarks: "A measure instituted to some extent through the influence of the above-named association," meaning the National Association of Wool Manufacturers. Thus, in a measure, assuming the responsibility of making the tariff on wool and woolens, which has proved so disastrous to the business of the great body of wool manufacturers and wool growers.

Mr. Hayes then follows with a personal attack on Commissioner Wells, more particularly impugning his motives, and to some extent denying his statement in a labored argument, but in our opinion failing to produce any proof that he is "hostile to one of the most important interests of the country," or that he has made any misstatements of facts.

We have no doubt Mr. Wells is competent to defend himself personally and officially against the attacks of Mr. Hayes; but it may be admissible for us to say that in our opinion Mr. Wells, as a public servant of this government, in regard to the tariff on wool and woolens, on which we feel entitled to speak with authority, has acted wisely, without partiality, and, as we believe, for the good of the whole people. We state this in justice to Mr. Wells, and also feeling a deep interest in this matter of protection.

Mr. Hayes takes exception to what Mr. Wells says in regard to the bargain made between the executive committee of the Wool Manufacturers' Association and the exec-

utive committee of the wool growers at the time these two committees made the bargain to bring about the tariff of 1867 on wool and woolens.

Mr. Wells says: "The gentlemen claiming to be wool growers of the United States, but more especially interested in the breeding of sheep than the growing of wool." Mr. Hayes says this is not true; "that there were five of the executive committee of wool growers, and but one of them interested in the breeding of sheep."

The undersigned fail to see any great difference between breeding sheep and growing wool—the interests seem to be identical. But, for want of a better reason to contradict Mr. Wells, Mr. Hayes has made use of this argument.

Mr. Wells is then spoken of as disparagingly characterizing the work undertaken by the representatives of the wool-growing and wool-manufacturing interests. He says "This work was not to increase the revenue of the national treasury, nor to promote the interests of the great mass of the people, to whom woollen fabrics are almost as much a necessity as food and shelter, nor to increase the wages or comforts of the laborers who grow the wool or manufacture the cloth, but simply and exclusively to influence legislation for the promotion of their respective gains and interests." In reply to this last statement of the Commissioner, in regard to its truthfulness, the public have a right to judge for themselves. In our opinion, it comes very near the truth. But Mr. Hayes would have us believe these gentlemen of the two executive committees were pure philanthropists, and had no selfish views whatever.

The two leading propositions laid down by the Commissioner are, that under the tariff of 1867 wool has yielded the grower a less price than ever before, and that there has been a great decrease in the number of sheep in the country. To the wool grower these are of the first importance, and as affecting his particular interests, there is nothing else important in Mr. Wells's conclusions. They are simply statements of facts, seeming to require, from any one professing to consider them with a view to legislative decision and action, either a frank acknowledgment of their truth or a plain denial. We look in vain through the "Remarks" for any such acknowledgment or denial.

There is, indeed, a pretence made that the Commissioner has concealed facts in this connection, facts known to every one, and which the report recognizes throughout, though it does not state them in detail; and we fail to see how the writer would have us infer that the wool tariff of 1867 has been a blessing to the wool growers of this country because wool is abundant and cheap in foreign countries, and because large numbers of sheep have been killed in Australia and Brazil, these being the facts which Mr. Wells is charged, erroneously, we think, to have suppressed. Not venturing to deny the statements, does he not justify the Commissioner in his inference that in view of such facts the tariff is a failure?

Mr. Wells's third proposition is, that the wool industry of the country is greatly depressed in consequence of the present tariff on wool and woolens. Mr. Hayes denies this, and says: "The universal depression asserted is denied, as many branches and establishments enjoy reasonable prosperity. The depression should be general, as the influence of the tariff is general, to prove the tariff to be the efficient cause. The depression in certain branches is admitted."

We think, with Mr. Wells, that the depression in the woollen business generally was never so great as at the present time. But Mr. Wells had probably forgotten, or was not fully advised of the profits which have been realized by the carpet and blanket manufacturers, and to some extent by the worsted manufacturers. This, we shall endeavor to show, has been caused by the unequal and unjust operation of the tariff of 1867 in the different branches of the wool industry.

As above quoted, Mr. Hayes states that "the depression should be general, as the influence of tariff is general, to prove the tariff to be the efficient cause."

We agree with Mr. Hayes in this statement, and believe it to be sound reasoning.

But we deny that the influence of the tariff is equal. The executive committee, without doubt, knew this when they framed this tariff. For instance, they conveyed the idea to the western wool grower that carpets could not be manufactured from wool grown in this country, which was true to a certain extent; that is, there was not enough grown in this country to keep their machinery profitably employed, and so they made a bargain with the wool growers to allow *carpet* wools under 12 cents per pound, whether *washed* or unwashed, to come in under a duty of 3 cents per pound, while at the same time they agreed upon a tariff on fine washed wools, which are not grown in this country, and which are essential to the manufacturer of fine cloth, of 20 cents per pound specific, and twenty-two per cent. *ad valorem*.

For example, the duty on fine *washed* wool is 22.64 cents per pound to the manufacturer of fine cloths, and a duty of 3 cents per pound on *washed* wool to the carpet manufacturer. It must be borne in mind that the shrinkage in scouring is about twice as much in the fine wool as it is in the carpet wool, which gives the carpet-maker a still greater advantage over a fine-cloth maker.

In view of these facts, can the executive committee of the above association, or any one else, deny the unequal bearing of this tariff? To us it seems clear that this unjust exclusion of fine wools not grown here has contributed, in a great degree, to the decrease of prices of domestic wool. The price of wool in our market is governed by the price of cloths, and while foreign manufacturers have cheap, fine wools, in the absence of competition from us, they can, and do, import their cloths, in spite of a forty-five or fifty per cent. duty, at prices below the cost of production under the hundred per cent. duty on fine wool. Give our manufacturers fine wool at a mere revenue duty, as you do coarse wool, and the foreign manufacturer must pay more for his wool because of our competition, and will be forced to advance the price of his cloths, to the direct benefit of our own manufacturers, while our wool growers obtain an equal benefit by the increased price of their wools.

It is well known that, for a large portion of woolen fabrics, the manufacturer can afford to pay more for wool of American growth if he can obtain the foreign wools to mix with them, the product being absolutely improved by this mixture of the wools from abroad with American wools. From any point of view we believe it can be shown that the interests of the wool grower and manufacturer are identical; neither can be depressed for any length of time without seriously affecting the other, and both will be attended alike with prosperity.

We have no doubt that a very large amount of woolen fabrics, both in the piece and in garments, is smuggled into this country and brought in under false invoices, whereas the raw material pays the full duty.

In conclusion, inasmuch as the executive committees of the National Association of Wool Manufacturers and Wool Growers have conceded that such descriptions of wool as cannot be grown in this country to advantage ought to be admitted free of duty, or at least at a low revenue duty, and Congress has acceded to their wishes so far as carpet wool is concerned, and as we believe that we have made out quite as clear a case in regard to fine wools, we, therefore, pray that you, as guardians of the industrial interests of the whole country, will modify the present existing tariff in such a manner that fine wool may come into the country at as low rates of duty as the carpet wools now do.

EDWARD HARRIS.

SLATER WOOLEN CO., by H. N. Slater, jr.

LIPPITT WOOLEN CO., by C. H. Merriam, treasurer, Providence, Rhode Island.

EVANS, SEAGRAVE & CO., Providence Mills, at Waterford.

JESSE METCALF, agent Wanskuk Co., Providence, Rhode Island.

R. G. HAZARD, Peacedale, Rhode Island.

STEIN & TINKHAM, Burrillville, Rhode Island.

WILLIAM TINKHAM, Carolina Mills, Rhode Island.

E. S. BRADFORD & Co., Providence, Rhode Island; factory at Uxbridge, Massachusetts.

F. M. BALLOU & Co., Providence Mills, at Waterford.

PEACEDALE MANUFACTURING Co., R. Hazard, treasurer mills at Peacedale, South Kingston, Rhode Island.

HOLMAN & JOHNSON, Nasonville Mills, Rhode Island.

JAMES LEGG & Co., Burrillville Mills.

LYMAN COPELAND, Glendale.

FRANCIS CARPENTER, Burrillville, Rhode Island.

HORACE A. KIMBALL, Burrillville, Rhode Island.

FISK & SAYLES, Pascoag, Rhode Island.

J. A. WALDEN, Pascoag, Rhode Island.

JAMES O. INMAN, Pascoag, Rhode Island.

SMITH & SAYLES, Chepachet, Rhode Island.

J. L. & F. W. WHIPPLE, Providence, Rhode Island.

F. W. WHIPPLE, Cavendish, Vermont.

J. D. NICHOLS & SONS, Mohegan, Rhode Island.

JOS. G. PRAY, treasurer of Pray's Woolen Co., Bellingham, Massachusetts.

REAHAM & MASON, Providence Mills, at Waterford.

J. T. SEAGRAVE & Co., Providence Mills, in Burrillville, Rhode Island.

BORDEN & BOWEN, Mohegan Mills, in Burrillville, Rhode Island; Mapleville Mills, in Burrillville, Rhode Island; Elmville Mill, Cranston, Rhode Island.

J. P. CAMPBELL & Co., Providence Mill, at Wickford, Rhode Island.

EDWARD PEARCE, JR., treasurer Stillwater Woolen Mill, Providence, Mill at Stillwater, Rhode Island.

THOMAS HARRIS, treasurer Harris Woolen Co., Putnam, Connecticut.

PAINE & SACKETT, Providence, Rhode Island.

WILLIAM D. DAVIS, Providence Mill, at Uxbridge, Massachusetts.

JAS. P. & JOS. G. PRAY, Franklin.

CHAS. H. WHIPPLE, E. H. B., Providence Mill, in Burrillville.

JAMES GREENHALFH, JR., Plainville, Rhode Island.

EDWARD SEAGRAVE.

J. O. STARKWEATHER, Pawtucket, Rhode Island.

SPRAGUE, COLBURN & Co., Warehouse Point, Connecticut.

E. H. AMMIDOWN, Philadelphia.

A. KING, treasurer, Lisbon, Connecticut.

SETH B. HUNT, New York and Vermont.

J. S. MACKINTOSH, treasurer, Holyoke, Massachusetts.

S. & H. SAYLES, Killingly, Connecticut.

L. J. STIASTUY, treasurer Merrimack Mills, 96 & 98 Worth street, New York.

AUBURN WOOLEN Co., per Charles Fearing, president, at Auburn, New York.

OWEN CLARK, Providence, Rhode Island.

PROVIDENCE, RHODE ISLAND, *February 21, 1870.*

The above petitioners represent thirty-three corporations and companies, and twelve individuals, some of the best manufacturers in the United States, whose goods are well known in the markets of our country, and represent a capital engaged in the manufacture of woolen goods of over fifteen millions of dollars, and owning upward of five hundred sets of woolen machinery. The names were obtained in a small section of country, and many of them have been, and some now are, members of the "National Association of Woolen Manufacturers."

INDIRECT TAXATION IMPOSED ON THE WOOLEN MANUFACTURING INDUSTRY OF THE UNITED STATES.

The following is a schedule of articles entering into the woolen manufacturing in-

dustry of the United States, with the rate of taxation imposed on the same under the existing tariff:

Nitric acid, 10 per cent.	Argols, 6 cents per lb., or 44 per cent.
Sulphuric acid, 1 cent per pound.	Blue vitriol, 100 per cent.
Alum, 60 cents per 100 lbs. or 40 per cent.	Box boards, 20 per cent.
Alizarine, 10 per cent.	Borax, 10 cents per lb., or 78 per cent.
Analine dyes, \$1 per lb. and 35 per cent.	Brimstone, \$10 per ton.
Extract annatto, 10 per cent.	Brooms, 35 per cent.
Brushes, 40 per cent.	Nitrate of tin, 20 per cent.
Cards, 35 per cent.	Olive oil, 35 cents per gallon.
Cutch, 10 per cent.	Paints, 25 per cent.
Chalk, \$10 per ton, or 833 per cent.	Wrapping paper, 35 per cent.
Chromate of potash, 3 cents per lb., or 34 per cent.	Press papers, 35 per cent.
Coal, \$1 25 per ton, 39 per cent.	Prussiate potash, 10 cents per lb., or 24 per cent.
Copperas, 85 per cent.	Yellow prussiate potash, 5 cents per lb.
Cudbear, 10 per cent.	Ropes, 3½ cents per lb.
Emery, 1 cent per pound.	Sumac, 10 per cent.
Files, 10 cents per pound and 30 or 56 per cent.	Organzine silk, 35 per cent.
Flocks, 12 cents per lb., or 83 per cent.	Sewing silk, 40 per cent.
Fuller's earth, \$3 per ton, or 25 per cent.	Soda ash, ½ cent per lb., or 22 per cent.
Glass, 49 per cent.	Teazles, 10 per cent.
Gums, 20 per cent.	Bar tin, 15 per cent.
Carmined indigo, 20 per cent.	Muriate tin, 30 per cent.
Lead, sugar of, 222 per cent.	Twine, 40 per cent.
Litharge, 3 cents per lb., or 61 per cent.	Fine wool, 100 per cent. and over.
Extract logwood, 10 per cent.	Sperm oil, 20 per cent.
Machinery, 35 and 45 per cent.	Iron and copper, 45 to 70 per cent.
Nails, 1½ cents per pound.	Steel, 37 to 48 per cent.
Nitrate of iron, 20 per cent.	All manufactures of iron, copper, and steel, 35 to 45 per cent.

All of the above taxes, which enhance the cost of domestic woolens, are paid by the persons who wear the goods, and constitute a bounty in favor of the foreign woolen manufacturers, who are exempt from their payment. The wool growers pay these taxes in common with all other domestic consumers, and derive no benefit whatever from their continuance; for it must be borne in mind that *it is the price of foreign fine goods which governs the price of the farmer's fine wool*. The higher the taxes are on all the raw material that enters into the expense of making our goods, the more it pleases the foreign woolen manufacturers. Why can't our wool growers see this point? The wool growers and the goods manufacturers' interests are identical. Scoured fine wool, which the foreigner obtains for fifty cents per pound, pays a duty of fifty-one cents per pound, and none is grown in this country.

And last, but not least, wages, which are enhanced by so many duties, without any gain to the laborer, as he has to pay out the increase of his wages for those things which he must buy, and which are enhanced by protection.

The Commissioner further presents, that the existing depressed condition of the wool and woolen industry of the country is in itself the best possible proof of the correctness of his estimates, predictions, and recommendations. In relation to the depression of these industries, the New York Dry Goods Economist and Reporter, a journal regarded as most reliable authority, under date of April 15, 1870, uses the following language:

At no time in the history of our country have woolen goods ever been sold at as low

figures; and unless prices for the production of our woolen mills are improved, their existence may be easily determined if the amount of their capital is but ascertained. Our columns will bear us out in this opinion in the number of mills advertised for sale, while many others, we fear, are too poorly off to even pay for advertising their property.

The solution of the success of the woolen interest is entirely problematical, and can only be demonstrated by the voluntary withdrawal of many who can do so without a tarnish to their credit, or by a process that will wear out and use up what little capital that hundreds now boast of.

We make these pertinent remarks, because it is now time for our manufacturers to begin preparations for another season, and we deem it necessary to their interests that the true state of affairs should be known before they venture into competition with a market which, as long as we may have an over-abundance of machinery, can but be over-supplied with merchandise. Relief may be had by the introduction of foreign wool, which could be largely used to the diversification of production, in mixing with our fine wool; but we fear but little success can be hoped for in that quarter.

The cotton mills have apparently been more successful in holding on to their property than have the woolen mills; but if the truth was known, we fear that the facts would not bear out all the statements that are made.

In further illustration of the depressed condition of the woolen industry of the country above referred to, the Commissioner would also ask attention to the following statement of the Auburn (New York) Morning News, of April, 1870, "*That on or near the line of the New York Central railroad, between Waterloo and Albany, there are eleven woolen mills now idle, while one-third of the woolen machinery of the country is said to be in the same condition.*"

Nevertheless, in the face of these facts, the New York State Wool Growers' Association, Henry S. Randall, president, at their annual meeting, March 2, 1870, passed a series of resolutions (see report of the majority) affirming their unshaken confidence in the beneficent effects of the present wool tariff; and denunciatory of the Special Commissioner of the Revenue.

Furthermore, the majority of the committee, in showing the reduction in the price of American woolens since 1860, and in adducing the same as evidence, that the existing tariff has proved alike "a boon to the laborers and consumers," omit to mention the fact that the prices of woolen goods have fallen in Europe proportionally below the European prices of 1860; and that from this decline, in which all the rest of the world has participated, the American laborer and consumer has received no benefit. In short, although the majority of the committee cannot see it, it does not seem very difficult to appreciate the increase of comfort which would accrue to the working classes of the United States, if the cost of good clothing could be reduced from thirty to fifty per cent.—as it would be with a reasonable tariff—to every man, woman, and child of our present great and increasing population.

The majority of the committee, moreover, omit to take any notice of the circumstance, that while, under the existing tariff, the woolen industry of the country has become remarkably depressed, the same industry in Canada, right across our borders, under a more liberal tariff, has

been greatly stimulated; and is reported to have experienced an increase, since 1865, of over *eighty per cent.*

The following letter has been addressed to the special commissioner by Edward Harris, esq., well known as one of the leading woolen manufacturers of New England:

PROVIDENCE, *March 21, 1870.*

SIR: As an evidence of the prosperity of the wool manufacturing interest in Canada since our tariff of 1867 was imposed, I send you an extract taken from a letter of 12th instant, from a most respectable house in Hamilton, Canada, to a house of equal respectability in Providence, Rhode Island:

"The wool manufacturers are in a good, sound, healthy state here, and have been since 1865, except one year, which was caused by too many factories making the same sort of goods. About the time the reciprocity treaty was abrogated we had about one hundred manufacturers of woolen goods in this country—a great many of them small. Up to January, 1870, they have increased to one hundred and eighty mills, and the machinery has increased about one hundred and fifty per cent. Some of the small factories, also, which at that time had three to four sets, have now from six to eight and ten sets. The smaller ones have doubled and tripled.

"Much less clothing wools are brought from your country than formerly, but the quantity of other foreign wools has largely increased from different parts of the globe. We have imported about three hundred thousand pounds from March to December, 1869."

So much for the prosperity of the woolen interests of our neighbors: an increase of 150 per cent. in five years; without our protective tariff of 100 per cent. and upwards on wool, and from 40 to 130 per cent. on woolen goods; and our business depressed nearly the whole of the time mentioned above, and much of our machinery standing idle at this time.

Yours,

EDWARD HARRIS.

Under the same head of "wool and woolens," the Commissioner would also notice the following charge, embodied in the report of the majority. It says:

The same inexplicable carelessness of assertion is found in the Commissioner's surprising statement that one of the results of the wool tariff has been "a decrease in the number of sheep, estimated by the Commissioner of Agriculture at four millions for 1868, while other authorities place the total decrease as high as twenty-five per cent. since the passage of the wool tariff."

By referring to the report of the Commissioner, it does not appear that he has stated, as alleged, that the sheep of the country had decreased by reason of the passage of the wool tariff of 1866, but only that a decrease of sheep had been experienced since that time; and he quotes as one of his authorities, in support of this statement, the Report of the Commissioner of Agriculture. That the Commissioner of Agriculture did make the statement of loss for the year 1868, as quoted, may be seen by reference to the Agricultural Report for 1868, page 36, the language being as follows:

The reports relative to sheep are not so favorable. The wool business has been comparatively unprofitable of late, and the inevitable result is neglect, short commons, and the roughest treatment. The losses present an unfavorable comparison with the previous year in almost every State of the Union, and represent a total reduction in numbers of not less than 4,000,000.

The language here is certainly very clear and explicit; and if the Commissioner of Agriculture, in a subsequent report to the Wool Association, may have presented a different conclusion and estimate, it is difficult to see how the latter fact constitutes a basis for a charge of inexplicable carelessness on the part of the Special Commissioner of the Revenue.

DUTIES ON STEEL.

The Commissioner would next ask attention to the attempt made in the report of the majority and by other persons, to prove a dishonorable alliance between him and foreign industrial interests, by citing a schedule of duties on imported steel recommended in the report of the Commissioner.

When the charge was first made, the language in which it was presented was as follows:

That we should not suffer for want of their experience, (*i. e.*, the Sheffield steel-makers,) the draught of a bill providing a scale of duties on steel was prepared, as I am informed and verily believe, by or in consultation with a member of one of the leading firms of steel-makers of Sheffield, and sent over to a gentleman specially connected with legislation on financial subjects. I have examined the original draught as it came from Sheffield, and have a copy of it before me. It is a proposition by the vulture to protect the dove. It is plausible in its minute classification. It furnished Mr. Wells his schedule; and that gentleman may see how completely he has adopted it, how entirely his views on this important subject are in accord with those of the steel monopolists of England, whose interest it is to hold us in commercial and maritime dependence, I will ask the reporters to put the two schedules in parallel columns.

I cannot leave this branch of the subject without saying that I believe gentlemen generally who compare these schedules will agree with me in thinking that Mr. Wells's Sheffield employers have treated him badly, scurvily. Having induced him to father their project, so prejudicial to his country and so destructive to the business of many of his countrymen, they violated faith with him when they made their paternity of the scheme known by sending a copy of the bill to official quarters in this country in advance of the publication of his report. (*Speech of Hon. W. D. Kelley, House of Representatives, January 11, 1870.*)

In the report of the majority of the committee the language in which this charge is reiterated is modified as follows:

Upon page 125 of his report, the Commissioner urges the adoption of a new schedule of import duties upon the various grades of steel. In the great steel-making city of Sheffield, England, which exports the largest part of its products to this country, another schedule was prepared, suggesting the duties which our government should impose upon foreign steel, a copy of which schedule was sent by our consul in Sheffield to the Secretary of the Treasury, and is now before this committee. We think it worth while to place these two schedules side by side in order that the remarkable correspondence may be observed between the one prepared by foreign steel makers as best suited to *their* interests, and the other, prepared (quite independently, of course,) by a sworn officer of our government, as best suited to *our* interests.

The Special Commissioner now proposes to give an exact statement of the facts relative to this charge, as either expressed or implied.

The consul of the United States residing at Sheffield, England, is Mr. Geo. J. Abbott, a gentleman of the highest character for intelligence, integrity, and patriotism, and who, for his earnest efforts during the past year to break up an alleged system of foreign steel undervaluation,

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has received the thanks of the American steel manufacturer, and has also incurred, to some extent, the ill-will of the English steel importers. This officer of the government, at the request of the Special Commissioner, and as the result of much practical investigation, study of invoices, and consultation with experts, prepared and transmitted to the Special Commissioner, in November, 1869, a schedule of the different grades and varieties of steel, with a proportionate scale of duties, arranged mainly for the purpose of preventing any possibility of undervaluing by fixing a specific duty in the case of each article. Each article was there named or defined in connection therewith, with a clearness and scientific accuracy never before equaled; the lowest form of steel, viz., scrap steel, being taken as a unit, and the other kinds of steel being graded with reference to such unit. In the transmission of this schedule there was no secrecy or any attempt at secrecy, inasmuch as in addition to the copy sent to the Special Commissioner, other official copies were sent to the State Department and to the Treasury, and also to at least one member of Congress.

The Special Commissioner, after examining the schedule in question and regarding it as by far the best and most scientific classification ever constructed, and the rates of duty alike fair for the interests of the treasury, the American consumer of steel, and the American manufacturer, adopted and recommended the same in his report, subject to a few alterations in the way of an increase of rates.

Such, then, is a complete statement of the facts out of which a charge of dishonorable collusion with foreign importers and manufacturers is sought to be fastened upon the Commissioner.

By reference to the law creating the office of the Special Commissioner, it will be seen that it is made his duty to collect such data as will "enable Congress to legislate understandingly upon all questions relating to the revenues;" but it would seem that the majority of the committee interpret this requirement of law as if it were at the same time further and therein provided that the Commissioner shall neither seek nor receive any information pertaining to duties or revenues from any person not a native-born American, or even from any American official, if such official happens at that time to be discharging his duties in a foreign country.

And with this explanation of the exaggeration and perversion of a very simple, straightforward, and honest transaction, the Commissioner is content to leave the question to the judgment of the minority of the committee, to Congress, and to the country.

SALT.

The report of the majority of the committee quotes the following extract from the report of the Special Commissioner in reference to salt, and characterize it as an extravagant statement:

On page 49 the Commissioner says:

"The farmer finds he can purchase salt in Liverpool or Cadiz and lay it down in the

United States at from fifteen to twenty cents per bushel; but the government, through its currency and tariff, has imposed such a tax on it as to make it better for him to pay from forty to forty-five cents for American salt."

The majority of the committee also assert that, "*measured by a gold standard, salt is cheaper to-day than it was in 1860.*"

Now, as here is a case in which the statements of the Commissioner are unqualifiedly disputed and denied, he desires to submit proof of the accuracy of his statistics, which will not admit of either challenge or qualification.

And, first, on the authority of Messrs. Woodruff & Robinson, well known as among the largest and most respectable of the dealers in salt in the city of New York, he submits the following table of prices of salt in 1860, and the spring of the present year, 1870:

1860.

Turk's Island, August 4...	20½ cents per measured bushel of 75 pounds.
Turk's Island, Sept. 4.....	20 cents per measured bushel of 75 pounds.
Cadiz, August 4.....	22 cents per measured bushel of 72 pounds.
Cadiz, September 4.....	21¾ cents per measured bushel of 72 pounds.
St. Martin's, Sept. 7.....	24 cents per measured bushel of 80 pounds.

1870.

Turk's Island, April.....	42 cents per measured bushel of 75 pounds.
Cadiz, April.....	40 cents per measured bushel of 72 pounds.
St. Martin's, April.....	42 cents per measured bushel of 80 pounds.

The following table shows also the average price of Turk's Island salt for the years 1858, 1859, and 1860:

1858.....	18 to 19
1859.....	18 to 19
1860.....	13 to 19
Average price.....	18½

The quotation of the New York Journal of Commerce for May 17, 1870, of Turk's Island salt, is from 42 to 44 cents.

Again, the report of the majority of the committee states that the—

Average prices of Onondaga salt, in bulk, in New York, in 1866, 1867, and 1868 were 25 cents gold or 35 cents currency, and in 1869 hardly 32 cents in currency, by the reports of commercial agents of the Onondaga Salt Company.

Now what the commercial agents of the Onondaga Salt Company reported the Commissioner does not know, but he does know that no such quotations as given by these agents found their way into any of the standard and recognized price-currents; on the contrary, a transcript of sales from the books of Messrs. Woodruff & Robinson, for the year 1869, shows the average price of a measured bushel of domestic salt of 68 pounds, as compared with the price of Liverpool ground salt, to have been not less than 37½ cents. The quotations of the Journal of

Commerce for coarse Syracuse salt were, for March 4, 1870, 45 cents per bushel, and for May 17, same year, 40 to 42 cents for coarse domestic.

In Cincinnati, the prices of Ohio salt, an article of the same quality as Onondaga salt, and selling in competition with it, are given as follows by the Cincinnati Gazette, for the year 1869:

January 2.....	46 cents per bushel.
March 3.....	40 cents per bushel.
May 18.....	40 cents per bushel.
June 4.....	40 cents per bushel.
August 1.....	36 cents per bushel.
October 18.....	40 cents per bushel.
November 15.....	40 cents per bushel.

As to the further remark of the majority of the committee that—

It appears that the tariff, far from enhancing the cost to the consumer, has, by stimulating domestic production, actually *reduced* it;—

the Commissioner would simply refer to the reports of the Board of Trade of Chicago, which show that for the year 1860, the range of prices for a barrel of coarse domestic salt were from \$1 50 to \$1 60, and of fine from \$1 35 to \$1 50; while for the year 1869 the range of prices was from \$2 35 to \$2 65 for coarse salt, and from \$2 35 to \$2 60 for fine.

And, again, the report of the majority of the committee contains an additional charge against the Commissioner of a desire to mislead on this question of salt, presented in the following language:

The Commissioner shows a similar desire to mislead, on this question, by introducing page 88, a letter from Duncan Stewart, president of the Saginaw Salt Association, asserting that the present tariff on salt is an outrage on the country, and that one-half of the duty is all that the Saginaw interests desire.

The title appended to Mr. Stewart's name is calculated to make the community believe that he speaks by authority for the salt manufacturers of Michigan. To show how erroneous this is, and how the *real representatives* of the Saginaw salt interest have been ignored, we extract from a letter from H. M. Fitzhugh, of Bay City, Michigan, president of the Saginaw and Bay Salt Company, a large concern made up by the consolidation of several companies, with its sixteen directors in Saginaw and its neighbor, Bay City, and representing *the manufacturers of nine-tenths of the salt made in the Saginaw Valley*. Mr. Fitzhugh dates from the company's office, Bay City, January 29, 1870, and writes as follows:

* * * * *

"Mr. Duncan Stewart represents no one but himself. There could be no objection to Mr. Wells publishing his opinion, if he were not represented as president of the Saginaw Association of Salt Manufacturers, whereas he is president and principal owner of the Saginaw Valley Salt Company, a small concern, which made in the last year only 9,578 barrels of salt.

* * * * *

"Saginaw does *not* want the duty on salt *disturbed*, so far as I know. * *

"I gave the Bureau of Statistics my opinion in full upon this question, in response to the circular from that office. Mr. Wells does not allude to it, but prefers to quote Mr. Stewart, calling him president of our association, which is incorrect. You can make any use of this letter you choose.

"Very respectfully, yours,

"H. M. FITZHUGH,

"President Saginaw and Bay Salt Company."

The writer of this letter is well and widely known, and represents the makers of 3,000,000 bushels of salt, while the *so-called* "President of the Saginaw Association of Salt Manufacturers" represents no one but himself.

In response to this statement the Commissioner would say, first, that he has no knowledge of any communication having ever been sent to the Bureau of Statistics by Mr. Fitzhugh; and, secondly, as an answer to the charge that the Mr. Stewart, from whom the Commissioner derived information, was wholly irresponsible, and that his position as a salt manufacturer was misrepresented, he submits the following letter from the Duncan Stewart referred to, to which attention is respectfully requested:

DETROIT, March 26, 1870.

SIR: The aim and intention of the letter of Mr. Fitzhugh and Giles B. Stebbins was to make the public, the Committee on Ways and Means, and members of Congress, believe that the facts furnished to Mr. Commissioner Wells by me, as to the cost of producing salt in Michigan, were furnished by a nobody, and had only acquired importance by Mr. Wells representing that nobody as the president of a salt company that did not exist. I am, and have been for some years, president of the Saginaw Valley Salt Company. Mr. Wells has simply made the mistake of leaving out the word "Valley" after the word "Saginaw," and on this slight error Stebbins and Fitzhugh have founded their letter.

It would have been more manly and more to the point if Stebbins and Fitzhugh had attacked my facts and figures, and proved them incorrect. This was more than they could do, hence the pitiable quibble about my official title in the salt world.

The Onondaga Salt Company, of Syracuse, New York, represented in Congress by the Hon. Dennis McCarty, is the largest in the country. Their policy has been to charge extortionate prices at all places distant, either from the sea-coast or competing salt works. Their price at Syracuse during the last autumn was \$2 30 per barrel, while to Canadians, who can import salt free of duty from England, they charge only the equivalent of \$1 38 specie, or, with gold at 130, \$1 80 currency. In New York City where, notwithstanding the duty of over 100 per cent. imposed on foreign salt, some competition is experienced, they charge much less than in the interior of the State. They also supply the New England cod fishermen, who have the privilege of purchasing salt free of duty at the same prices at which foreign salt is offered to them in bond. That is, they voluntarily offer their salt free of a duty of upward of 100 per cent. How necessary, then, must protection be to the infant industry. These monopolists, not content with the immunity they enjoy from foreign competition by reason of protective duties, seek to also destroy all domestic competition. In order to effect this, they sell salt in Chicago, distant from Buffalo by water one thousand miles, for less than they ask for it in Buffalo. This policy of underselling all competitors, regardless of cost, has forced me to close my works at Saginaw. Mr. Fitzhugh is, consequently, able to taunt me with the fact that my works only produced nine thousand five hundred and seventy-eight barrels last year. But he knew when he penned the sentence that my works *had been the most productive in the State*, and that I closed them early in the season. In the Saginaw district there are firms who own both salt works and saw-mills. These firms, by using the refuse wood from their saw-mills for fuel in their salt works, can produce salt cheaper than those other firms who must purchase their fuel.

Not being a saw-mill owner I could not withstand the competition of the Onondaga Company. Now if I were to go to Congress and ask that a tax should be imposed on all proprietors of saw-mills, in order that all those unfortunate persons who own no saw-mills may be protected against an unequal competition, I should be doing just what Onondaga swindlers do when they ask for protection against foreign salt.

812 812

218 218

100 100

812 812

218 218

Their demand is even more unreasonable than mine would be, for they ask for protection against the competition of a tropical sun, which makes salt for nothing on the rocks of Turk's Island.

The net value of salt for the past year will not vary much from \$1 53 per barrel laid down on the docks on the Saginaw River. This would pay but little to owners of "kettle blocks," where the fuel was purchased, but this price paid those who run their salt works with refuse fuel from their saw-mills and shingle works, a profit of not less than seventy per cent. on the cost of production.

All the Saginaw salt manufacturers need, to give them control of the entire salt trade of the States tributary to the western lakes, is a manly independence that will ignore congressional aid, set Onondaga (deprived of government pay) at defiance, and step into the front ranks of the salt interest. Saginaw can and will control the price of salt in more than one-half of the United States.

It would have detracted from my position to have made the world believe that I occupied Mr. Fitzhugh's place, as president of the "Saginaw and Bay Salt Company." I am the independent and unpaid president of a salt company, while Mr. Fitzhugh, notwithstanding his apparent indignation, is only the paid president and dependent of an association formed to *sell salt*, not to *make it*, and as my works sell their salt through Mr. Fitzhugh's association, I stand in the position of one of Mr. Fitzhugh's employers.

I will state further that the business firm with which I am connected here have built three screw-steamers, costing over \$170,000, expressly for the transportation of Saginaw salt. This line of screw-steamers have broken up a steamboat combination that for years preyed on the vitals of the trade. The cheapening of up-freight between Detroit and the Saginaw River has increased the trade between these two points over 200 per cent. in two years. I did all this without congressional aid.

Three years ago I raised the money to enable the association of which Mr. Fitzhugh is president to make the agreed-upon advances to the manufacturers, at a time when the best men in the valley had indorsed the association's notes; and with these indorsements had failed to raise a single dollar, either at home or in any of the banks of the city of Detroit. Duncan Stewart was somebody then, and Mr. Fitzhugh would not then have objected to Mr. Wells had he called me president of the United States, instead of president of a paltry salt company.

I am yours, most respectfully,

DUNCAN STEWART.

The SPECIAL COMMISSIONER OF THE REVENUE.

As further and additional evidence that the Commissioner has not, as charged by the majority of the committee, exaggerated the price of salt in 1869 as compared with 1860, he asks attention to the following extract of a letter addressed to him by one of the best known and most enterprising of southern agriculturists:

SPARTA, GEORGIA, *March 26, 1869.*

SIR: In answer to your inquiry respecting the use and necessity of salt in the cultivation of cotton, I would say I have been engaged for the last twenty-two years in planting. I find salt to be essential to success in the cultivation of cotton. In combination with guano and plaster it is an almost total preventive of rust, which is one of the worst enemies the cotton planter has to contend with. Salt makes the cotton bear longer in the season, and stand drought better.

The price of salt varied before the war in Savannah from 50 cents to \$1, according to supply. In January, 1861, I bought five hundred sacks (two hundred pounds) of salt for 50 cents per sack. In January last I purchased, in Savannah, two hundred sacks at \$1 90 (which was the lowest point) to \$2 25.

DAVID DICKSON.

The SPECIAL COMMISSIONER OF THE REVENUE.

The Commissioner would also state that he has the authority of Hon. John Pool, United States senator from the State of North Carolina, to say that salt which before the war could be bought in that State for 18 and 20 cents per bushel, commanded during the last year from 60 to 70 cents per bushel. (*Speech of February 12, 1869, Washington, D. C.*)

NUMBER OF PERSONS EMPLOYED IN MANUFACTURES.

The Commissioner, in that part of his report which draws a Comparison between the various leading industries of the country, stated, on the authority of the secretary of the American Iron and Steel Association, the number of workmen employed in the "primary production of iron" to be 115,000, divided as follows: at blast furnaces, 12,500; preparation of fuel and ore, 42,000; at forges and bloomeries, 2,500; in rolling-mills, 58,000. The majority of the committee, in their report, state that not being satisfied with the Commissioner's estimates of the number of persons employed in manufactures, the chairman of your committee addressed a letter of inquiry to the secretary of the American Iron and Steel Association, and proposed the following questions, which, with their answers, are given below:

What number and proportion of persons engaged in the manufacture of iron and steel and manufactures thereof, and in mining ore and coal for same?—Answer. Number of persons actually employed, 640,000. Number of persons directly supported, 3,200,000.

What amount of capital is at present invested in the manufacture of iron and steel and manufactures thereof?—Answer. Estimated at \$420,000,000.

How many persons are directly and how many indirectly supported by manufactures, and especially by iron and steel?—Answer. The above question is answered pretty nearly in the answers to the first and second interrogatories. Perhaps one-third of the whole population of the country is indirectly supported by the many branches of manufacturing industry.

HENRY McALLISTER,

Secretary.

In reviewing these statements, which are made the basis of a new charge of inaccuracy, the Commissioner feels that he needs use but few words to expose their disingenuousness and unfairness. The Correctness of the statement of the commissioner as to the number of men employed in the primary production of iron is not denied, or even in any degree directly questioned; and, considering the authority quoted by the Commissioner, they could not well be with propriety. But, at the same time, by restating this question, and enumerating in connection with the number engaged in the primary production of iron and steel the much greater number engaged in the manufacture of articles from iron and steel, it is made to appear that the Commissioner was egregiously in error. But there is no such connection between the primary manufacture of iron and steel, and the manufactures from iron and steel of implements and structures, as axes, hair-pins, iron vessels, watch springs, pocket cutlery, iron houses and the like, as warrants their grouping as one class

of industry any more than there would be for enumerating under the head of the woolen, cotton, and silk industries all those persons who are employed in making clothing, sails for ships, upholstery, millinery work, and the manufacture of umbrellas, cloth caps, or embroideries.

Furthermore, in all that relates to the tariff the interest of those engaged in the manufacture of iron bridges, railroads, iron vessels, cutlery, and general hardware are antagonistic and opposed to the demands of extravagant duties made by those engaged in the manufacture of pig and bar iron, and bar or sheet steel; inasmuch as the more the cost of the primary forms of iron and steel are increased by high duties, the greater the cost of the articles manufactured from them, and the more restricted their consumption and use. To such an extent is this principle recognized in legislation, that whenever the duty on iron and steel in their primary forms is raised, the mere fact of the increase is always adduced as an argument for an increase of duties on the manufactures from these articles. The charge, therefore, that the Commissioner has made incorrect statements in this particular needs only to be presented fairly to carry its own refutation.

PROGRESS OF HOME MANUFACTURES.

Exception is further taken to the report of the Special Commissioner by the majority of the committee, on the ground that it neglects to notice the growth of domestic manufactures, which it is alleged has taken place under the present tariff and by reason of its influence; which influence the Commissioner here most explicitly denies. A reference to the former reports of the Commissioner will, however, show that he has, for a succession of years, given especial attention to this subject, and that he has annually presented an array of statistics bearing upon domestic industry more complete than anything of a similar nature which has been published since the report of the census of 1860; and it is furthermore reasonable to suppose that the Commissioner, recognizing the extreme depression of business which has prevailed during the last year, did not find for his last report such flattering evidence of progress as the investigations of former years had afforded; but, on the contrary, much that indicated a retrogression rather than progress in the industry of the country.

The majority of the committee present a lengthy statement, showing the enlargement of many old and the establishment of many new branches of industry since the passage of the tariff in 1864, and convey the inference, if they do not openly claim, that these extensions and enlargements are the legitimate fruits of the revenue policy then inaugurated. But it is very doubtful whether the statements presented by the committee, or the actual facts if they could be gathered, would show any greater growth than was to have been naturally expected from an increase of population averaging at least one million per annum. On the other hand, there is important evidence, not noticed by the majority of the

committee, which tends to show that, from some cause during the period under consideration, growth has been arrested and development retarded, and to this evidence, in part, the Commissioner would ask attention. Thus, the following table exhibits the gold value of our domestic exports and re-exports, and our imports for the three years previous to the war, and for the years 1866, 1867, 1868, and 1869, subsequent to the war, exclusive of the movement of gold or bullion.

BEFORE THE WAR.

	Exports.	Imports.
1858	\$261, 000, 000	\$263, 000, 000
1859	292, 000, 000	331, 000, 000
1860	337, 000, 000	354, 000, 000

AFTER THE WAR.

1866	\$349, 000, 000	\$434, 000, 000
1867	288, 000, 000	395, 000, 000
1868	291, 000, 000	357, 000, 000
1869	304, 000, 000	418, 000, 000

It will thus be seen that, notwithstanding the increase in the population of the country, the increased facilities for transportation and movement, and the great increase through improvements in the productive power of machinery which have taken place during the last ten years, the exports have remained nearly stationary or declined, while the importations have steadily increased; or, in other words, while increasing our purchases, we have relatively diminished the sales of the products of our industries.

The limitation of our markets, through the inability of the country to increase the export of its surplus products, is also strikingly shown by a comparison in detail of the exports of corresponding periods of four years antecedent and subsequent to the war. Thus, of domestic produce—agricultural staples, &c.—excluding petroleum, which was not exported previous to 1861-'62, the comparisons are as follows :

1857	\$235, 491, 000	1866	\$281, 676, 000
1858	208, 747, 000	1867	216, 499, 000
1859	231, 847, 000	1868	210, 206, 000
1860	265, 859, 000	1869	212, 318, 000

During the same series of years the comparative exports of domestic manufactures were also as follows :

1857	\$40, 527, 000	1866	\$32, 859, 000
1858	39, 803, 000	1867	38, 106, 000
1859	42, 974, 000	1868	40, 183, 000
1860	47, 160, 000	1869	42, 262, 000

The very extensive and remarkable falling off within the last ten years in the export of certain specific articles representing great branches

of domestic industry, is also most significant and worthy of attention. Thus, in the article of manufactured cotton, the gold value of the exportations has declined from \$10,934,000 in 1860 to \$4,416,708 in 1869; and if quantities, yards and pounds, had been selected, the comparison would be even yet more unfavorable.

Of general manufactures of iron and steel, an export of \$5,514,238 in 1860 has been reduced down to \$1,579,676 in 1869; while of manufactures of copper and brass, the reduction of exports in the same period has been from \$1,664,122 to \$445,637.

The reduction which has taken place during the same period in the exports of various other articles of domestic manufacture or production is also indicated in the following table:

	Exports, 1860.	Exports, 1869.
Boots and shoes.....	\$782, 525	\$356, 290
Woolens.....	389, 512	120, 013
Carriages.....	816, 973	298, 308
Candles.....	760, 525	324, 995
Pot and pearl ashes.....	882, 820	187, 004
Books and paper.....	564, 066	290, 098
Hats and caps.....	211, 602	72, 740
Manufactured tobacco.....	3, 338, 083	2, 101, 335
Soap.....	494, 405	384, 950
Trunks and valises.....	37, 748	24, 800
Paints and varnishes.....	223, 809	91, 452
Gun powder.....	467, 772	122, 562
Manufactures of marble and stone.....	176, 239	65, 515
Manufactures of India-rubber.....	240, 841	128, 216
Beer, ale, and porter.....	53, 573	9, 755
Garden and other seeds.....	596, 910	44, 186
Hides and skins.....	1, 036, 000	219, 918
Living animals.....	1, 858, 091	689, 508

The Commissioner would next ask attention to the change which has taken place since 1860 in the commercial relations between the United States and various countries, and which, by reason of location, mutual necessities, or political sympathies, the most reciprocal, profitable, and extensive trade and commerce was naturally to have been expected. Thus, in the case of Cuba, Porto Rico, and other Spanish West Indian possessions, our imports for 1860 were \$41,450,000, and our exports \$13,713,000 gold valuations; but in 1869, while increasing our importations to \$69,903,000 gold valuation, we exported, of domestic produce, but \$15,479,000 currency; or, in other words, while purchasing \$28,000,000 more than in 1860 we were not able to sell in return a larger gold value of the products of our industry than we did nine years previous. The increased adverse balance, therefore, represents substantially an increased purchase upon credit, to be settled for, in the first instance, most probably, by the purchase of exchange on London,

&c., not less than 20,000 skilled mechanics, and 1,000 young men as apprentices learning the various trades. To-day these yards have either ceased to exist or are lying dormant, not 1,000 skilled mechanics finding employment, or 100 apprentices having encouragement to learn the art.

A recent report of the New York Association for Improving the Condition of the Poor, also makes this statement :

“Early in December of last year, 1869, it was estimated on reliable data that more than 50,000 men, and at least as many females, who depended upon their daily toil for subsistence, were without employment.” “High as the wages of those appeared who had work, their purchasing power was not commensurate to the increased cost of living.” “It has been a growing conviction of the institution, based on facts which have come under its review, that, notwithstanding the high wages of labor, the seemingly ample remuneration has failed to put the laboring classes in as favorable a position as they occupied before the advance of wages in 1860.” One general cause of indigence, says the report, “is the lack of remunerative employment.”

Is there not also much of significance as bearing upon the relative prosperity of the country, in the following table extracted from the last report of the superintendent of education and public schools in the State of Maine, showing the number of scholars returned to the authorities from 1860 to 1869, inclusive :

No. of scholars, 1859, between 4 and 21.....	242, 700
Do.....1860.....do.....	244, 920
Do.....1861.....do.....	243, 171
Do.....1862.....do.....	241, 571
Do.....1863.....do.....	239, 329
Do.....1864.....do.....	235, 188
Do.....1865.....do.....	229, 797
Do.....1866.....do.....	229, 378
Do.....1867.....do.....	228, 388
Do.....1868.....do.....	225, 200
Do.....1869.....do.....	226, 143

In other words, the returns of the State of Maine exhibit a decrease in the number of the children of the State in ten years of over sixteen thousand ; a condition of affairs not reconcilable with the idea of a high degree of prosperity in one of the States of the country, formerly regarded as among the most prosperous and enterprising. The Commissioner submits these facts, as some answer to the claim that the enactment of the tariff of 1864 has been attended with a great increase of national wealth and prosperity, and that in denying the actuality of this prosperity, he has misrepresented the condition of the country.

LUMBER.

But upon no one particular does the Commissioner conceive his report to have been more ungenerously dealt with by the majority of the committee than in respect to the matter of lumber. What the Commissioner said reads as follows :

Lumber.—The following table shows the advance which has taken place in the price

per thousand feet of mixed lumber, by the cargo, in Chicago, from 1861 to 1868, inclusive:

	Mean of daily averages.
Year ending December 31, 1861.....	\$6 50 per M feet.
March 31, 1866.....	14 80 per M feet.
March 31, 1867.....	17 70 per M feet.
March 31, 1868.....	15 10 per M feet.

The following table, compiled by William G. Thomas, esq., of Albany, New York, gives the relative value of pine lumber in that market from 1859 to 1868, inclusive:

	Per M feet.		Per M feet.
1859.....	\$15 94	1864.....	\$31 21
1860.....	16 23	1865.....	22 12
1861.....	14 46	1866.....	29 83
1862.....	15 02	1867.....	27 42
1863.....	23 69	1868.....	25 95

The statement, therefore, made by the Commissioner in his report for 1868-'69, and which has been questioned, "that the increase in the price of lumber since the commencement of the war has been far in advance of the average increase in the price of labor and of other commodities," is fully confirmed.

The above tables also clearly illustrate the effect of the imposition of the tariff on prices. Thus the existing duty of twenty per cent. on lumber became operative on lumber imported from the British Possessions (our only foreign source of supply) by the expiration of the reciprocity treaty in the spring of 1866. The subsequent advance in prices in Chicago was from 14 80 per thousand feet in 1865-'66, to \$17 70 in 1866-'67; and in Albany from \$22 12 per thousand feet in 1865, to \$29 83 in 1866, and \$27 42 in 1867. As the prices paid for lumber, furthermore, have been as a rule higher in Canada since the expiration of the reciprocity treaty and the imposition of the twenty per cent. duty, while the sales have been larger, it is evident that the duty falls wholly upon the American consumer.

To show that the Commissioner was wrong in the above statements, the majority of the committee quote a letter from Mr. W. D. Hough-telling, president of the Lumbermen's Exchange, Chicago, showing "that the price of lumber has rapidly declined in Chicago since 1866, notwithstanding the imposition of a duty of 20 per cent. on Canadian lumber," and they add: "The Commissioner endeavors to create a contrary impression by referring to the quotations of 1866-'67. He even ignores his own previously quoted price of mixed lumber at Chicago in March, 1868, when, according to his own figures, it had fallen \$2 60 per thousand since 1866-'67."

The Commissioner submits that this is no fair presentation of his meaning or intention. This meaning and intention was, *first*, to show that the increase in the price of lumber, since the commencement of the war—not as the committee would have it since 1865—has been far in excess of the average advance in the price of labor and other commodities. Now does any one doubt this? The committee do not question it, and they cannot, for on this point the evidence is most ample. (See prices of lumber in Chicago above given for 1861 and 1868; also, table of prices of lumber in Maine, hereafter presented for 1859 and 1869.)

We come, therefore, to the *second* point made by the Commissioner, and that is, "that the duty proposed on the importation of Canadian

lumber falls wholly on the American consumer." Now how does the fact that the price of lumber has declined in Chicago since 1865, disprove this position. In fact, what has the decline to do with the matter at all? That the addition of the duty in 1866, did have the effect of increasing the price of lumber in Chicago from \$14 80 to 17 70 per thousand feet, is shown by the figures of the Commissioner, which are the returns of the Chicago Board of Trade, and cannot be disputed; but the majority of the committee, in order to show that the decline of prices of lumber in Chicago in 1869 relieved the American consumer of Canada lumber from paying the duty, must show that the price of lumber in the Canadian market has declined in greater proportion; otherwise the relation of price to the purchasers in the respective markets will remain as before. The true state of the case, however, is just this: The repeal of the reciprocity treaty in 1866 advanced the price of lumber in the Chicago and other markets. This advance, by increasing for a time, the profits of the lumber manufacturers of the northwest, greatly stimulated and "over-did" the business, and more lumber was produced than could be readily sold; from which cause in turn, the price of lumber in the northwest has steadily fallen, and during the past twelve months, aided by the general depression of business, has touched a low figure. But during the past year the price of lumber in the Canadian market has advanced, as is shown by the following table embodied in a petition presented by Mr. Davis and others, citizens of New England and New York, to the chairman of the Committee of Ways and Means, February 11, 1870, asking for the removal of the duty on imported lumber, which table they state was prepared from the books of one of the largest lumber firms in the United States.

ADVANCED COST IN CANADA.

	1865.	1869.
Stock and sidings (boards and plank).....	\$10 50	\$12 50
Strips of all thicknesses	8 00	10 00
Third quality deal plank.....	6 50	7 25
Common box, or shipping lumber	8 00	9 00

The following table also shows the market price of the various descriptions of lumber in Maine for the years 1859 and 1869, as transcribed from the books of the most extensive manufacturer and dealer in lumber in Bangor, of that State:

	1859.	1869.	Increase per cent.
Spruce, hand-sawed, per M feet.....	\$9 00	\$15 00	67
Hemlock, boards, dry, per M feet	7 00	12 00	70
Hemlock, boards, green, per M feet.....	6 00	10 00	67
Pine, shipping boards, per M feet	11 00	19 50	60
Pine, planing boards, gang-sawed, per M feet.....	16 00	32 00	100
Pine, No. 2, boards, single, per M feet	30 00	50 00	67
Pine, No. 3, boards, per M feet	20 00	40 00	100

	1859.	1869.	Increase per cent.
Pine, No. 4, boards, per M feet	\$12 00	\$30 00	150
Pine laths, per M feet	1 50	2 50	66
Spruce laths, per M feet	1 25	2 25	80
Extra heart-pine clapboards, per M. feet	32 00	60 00	73
Clear	27 00	55 00	100
Extra sap	25 00	50 00	100
Clear	22 00	45 00	100
Extra spruce	16 00	30 00	87
Clear 5-feet spruce pickets	11 00	20 00	82
No. 1	9 00	15 00	67
Clear 4-feet	8 00	15 00	87
No. 1	6 00	10 00	67
Clear 4-feet pine	11 00	28 00	155
1st quality red cedar shingles	4 00	6 75	68
2d quality	3 50	6 25	78
3d quality	3 00	5 25	75
4th quality	2 50	4 50	80
5th quality	2 00	3 50	75
General average increase			93
Stumpage: Pine, per M feet	4 50	6 00	
Spruce, per M feet	1 25	2 50	

The fact, then, that owing to extraordinary circumstances, the price of lumber has fallen in the Chicago market, in no way affects the relative prices of Canadian lumber, and the duty remains precisely as before—an obstruction to a cheap supply of this indispensable article to all those parts of the country for which Canada, under natural circumstances, would be the source of cheap supply.

That the imposition of the duty has brought no benefit to the laborers engaged in producing the lumber in the Northwest is also plainly demonstrated by the following extract of a letter addressed, in November, 1869, to the Commissioner by a firm largely engaged in the production of lumber at Oshkosh, Wisconsin:

During the last year we have been obliged to reduce wages generally; but the cost of living is about the same as in 1867. The consequence is that the unskilled laborers are making a bare living; and, as far as my observation goes, are going into winter with less means than they have for a great many years. In my opinion, unless the general business of the country improves and the cost of living decreases by removing your tariff from articles consumed by the poor, the laboring poor are destined to see harder times than they have seen in this country.

One word more on this subject: The majority of the committee seek to convey the idea that the Commissioner, in discussing this question of lumber, has deliberately suppressed information, and they make use of the following language:

But why did the Commissioner end his table of prices with the quotations for March,

1868? His report is dated December 17, 1869, twenty-one months later, and it certainly was possible for him to procure the Chicago lumber quotations up to March, 1869, one year later than those given in his table.

And again :

* For example, in the table he gives of the cost of lumber at Albany he entirely omits the rates prevailing in that market in 1869, thus repeating the offensive and always hazardous experiment of suppressing the truth, as was done in the table of Chicago prices.

The Commissioner would answer these charges as follows :

In the case of the Chicago statistics the returns were taken from the reports of the Board of Trade, and by examining these reports it will be seen that in the report made April, 1869, the average prices of mixed lumber for the year ending March 31, 1869, were not given, and were, therefore, not accessible under this authority ; and as for the average prices for the year 1869, the report of the Commissioner was written in the fall of 1869, and presented to Congress before the expiration of the year, and before a single summary of the year's prices had been anywhere made public.

The Commissioner would call attention to another effect of the continuance of the present duty on lumber, imposed by the repeal of the reciprocity treaty in 1866, and that is, that it has tended to greatly diminish our exports, and thus further injure a commerce now almost entirely prostrate. For example, it is well known to those engaged in the foreign shipment of lumber from Boston and New York that the inconvenience of bonding lumber (with other obstacles in the way of our general shipping trade) has directly influenced them in making shipments direct from Canada ; hence large shipments have been made by those shippers during the last two years from Montreal and Sorel. This has stimulated the manufacturers on the St. Lawrence in opening the South American trade direct, and has so taken both employment and profit from American ship-owners and manufacturers. Thus, of ordinary lumber, planks, deal, &c., the exportations of the United States, which amounted in 1865 to \$4,340,664, were returned for 1869, even at the advanced cost of lumber, at only \$2,817,903.

THE FARMER'S QUESTION ANALYZED.

The Commissioner is charged with unfairness in taking wheat as a standard of value for agricultural products generally, for the years 1859 and 1869. In reply, it may be said, that in all such discussions wheat has been generally recognized as coming nearer than any other one article to being a universal standard ; and in relation to this country it has always been, next to cotton, the great staple of export ; and, therefore, the article which did the most toward paying for our imports, (except cotton, of course,) so that if any one article was to be selected, it was the one that all men would agree was the best. It is said, however, by the majority of the committee, that had the Commissioner taken pork, beef, lard, and butter, and used them together with wheat as a

standard, that very different results would have been obtained. Of course it would not be expected that a comparison of the price of one pound or one barrel of each of those products should be taken and a mean price per pound or barrel adopted; as it would be an attempt to compare by measure what was incommensurate. It would seem as if the fairest way would be to take the quantities of these various articles actually exported, whose purchasing value actually entered into the settlement of the year's business, and aggregating all at the prices of the two periods, so get at a fair comparative settlement.

It appears by the report of the Bureau of Statistics, that for the twelve months ending December 31, 1869, the exports of those articles were as follows :

Wheat...	34,345,704 bushels ; valuation.....	\$46,375,251
Flour...	3,218,341 barrels ; valuation.....	21,459,470
		67,832,721
Beef...	29,453,620 pounds=147,268 barrels	\$2,435,179
Pork...	27,354,849 pounds=136,774 barrels	3,474,594
Lard...	35,087,718 pounds.....	6,440,540
Butter .	1,583,444 pounds.....	543,133
		12,893,446

These are the custom-house valuations, and they show that the four last-named articles, in the aggregate, amounted in value to less than one-fifth as much as the article of wheat alone; but, that the majority may see that if their plan of taking into view all the articles named would not disprove the position of the Commissioner, attention is asked to the following analysis :

Taking the wheat as given above at the Commissioner's estimated price of \$1 35 currency per bushel, which happens to be almost exactly the valuation put upon it at the custom-house, the Commissioner's valuation being \$46,365,700 40 and that of the custom-house \$46,375,251, and adding the flour at the custom-house valuation \$21,459,470, we have \$67,832,721, currency price; and, taking this at the gold value at the rate fixed by the majority of the committee, to wit, 130 per cent., and we find the value of—

34,345,704 bushels of wheat and 3,218,341 barrels flour, in gold, to be	\$52,171,013
Add 147,268 barrels beef at the price fixed by the majority of the committee, (in gold,) average \$19 20	2,727,545
136,774 barrels pork, \$20 37½	2,786,500
35,087,718 pounds lard, 13 cents	4,561,403
1,583,444 pounds butter, 33½ cents	534,412
	62,780,873

Now, taking the same quantities at the same prices for wheat and flour in 1859, given in the treasury report on finances in 1863, in which the prices of staple articles in New York for thirty-nine years are carefully tabulated, and for the prices of beef, pork, &c., for the same year, those given by the majority of the committee we obtain the following results:

Wheat 34,345,704, at \$1 44	\$49,457,813
Wheat flour 3,218,341, barrels, at \$5 87½	18,907,778
Beef, 147,268 barrels, \$9 25	1,362,228
Pork, 136,774 barrels, \$15	2,051,610
Lard, 35,087,718 pounds, 11½ cents	3,945,682
Butter, 1,583,444 pounds, 19 cents	300,854
	76,025,965

So that the purchasing power of the actual exports of the year 1869 of the leading articles, wheat, wheat flour, beef, pork, lard, and butter, at gold prices, was \$62,780,873 only; and the same articles, if exported in 1859, would have yielded \$76,025,965.

It appears then, that the power to pay for imports of the actual articles exported in the year 1869 is \$13,245,090 less than that of the same articles would have been ten years before. The majority of the committee do not attempt to controvert the position taken by the Commissioner that the articles imported in exchange for those exports have been enhanced in price at various rates varying from 30 to 68 per cent. So that under this showing the demonstration seems to be complete, that what we sell brings less, and what we buy costs more, than it did ten years ago; and the inference, that much of this is due to the artificial obstructions to commerce established by law, seems inevitable.

REVENUE FROM IMPORTS.

The majority report, in criticising the Commissioner's plan of raising \$15,000,000 through duties upon metals, uses the following language:

The Commissioner says, on page 83, that "under an abatement or repeal of the duty no more pig iron would be imported than at present," and, on page 108, admits that "no material increase of imports being probable, the loss to the revenue would, therefore, be approximately \$750,000" annually from pig-iron alone. On page 129, in the "Schedule of a Tariff," which is there submitted as a revenue measure, the Commissioner proposes to raise from "metals" as follows:

"Iron, steel, lead, tin, and manufacturers of same, at such specific rates as shall amount to 25 per cent. \$15,000,000

Of course, the Commissioner's assumptions and admissions above concerning pig iron will also apply to all kinds of "iron," and to "steel," and their manufactures, the two leading articles of the above classification. The inquiry naturally suggests itself to your committee whether, with *reduced* duties and *no increase in importations*, the proposed revenue of \$15,000,000 could be obtained from the sources named.

The Commissioner entirely ignores the assumption made as above, and denies that the result stated would "*of course*" follow.

The pig-iron now imported is mainly or exclusively "Scotch pig," used for peculiar casting purposes, an article not made in the United States, and which will continue to be imported if a much higher duty than the existing rate was imposed. But the case is altogether different with manufactured iron and steel. A twenty-five per cent. duty would fully add 50 per cent. to the importations, because, by reducing the cost of the tools of the mechanic and the agriculturist, and the machinery of transportation and of all manufactures, the increase in the consumption of these articles would be very great.

In support of this inference, the Commissioner would simply call attention to the fact that, while in 1860, with a population of thirty millions, and a tariff of 24 per cent., our net imports of "bar," "rod," and "sheet" iron were \$6,379,784; in 1869, when our population had increased to *forty millions*, our imports of the same articles under the present extravagant tariff were only \$4,933,356. Again, of copper and brass we imported in 1860, under a low tariff, \$2,007,245, while in 1869, under a 45 per cent. tariff, the import value of the same articles was only \$318,109.

The Commissioner therefore denies, first, the right of the majority of the committee to assume any admissions on his part which he did not make; and secondly, he declares it to be his full belief that under a tariff of 25 per cent. on metals, our importations, through the increased ability of the country to consume, would fully reach the point necessary to secure the revenue estimated by the Commissioner.

The majority of the committee, under the same head, further say :

The fact can be conclusively established that, during the "hard times" following every reduction of the tariff, the production of American pig iron was greatly reduced by the stoppage of American furnaces and the consequent surrender of our markets to the foreign manufacturer.

The Commissioner does not propose to enter into any lengthened argument in respect to the assertion; but that he may show most conclusively that there are two sides to this question, he would simply ask attention to the history of the iron industry in the Mahoning Valley, one of the great centers of this branch of manufacture in the United States, and which may be regarded as typical of all the rest. The facts are taken from a letter addressed by John Stambaugh, jr., to General James A. Garfield, M. C., and appended to the speech of the latter in the House of Representatives, April 1, 1870.

What is generally called the low tariff period of this country, runs from the repeal of the tariff of 1842 in 1846 down to the breaking out of the war in 1861. Now, what was the course of the iron industry in the Mahoning Valley during that period? The first furnace was built in 1846. In 1847 and 1848, two others were built and put in operation. In 1850-51 the fourth furnace was constructed; in 1856 the fifth; in 1857-'58 the sixth, while between 1859 and 1860, the period of an extreme low tariff, six more furnaces were built and put in operation in this district

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making in all twelve furnaces. Now, on the other hand, from 1860 to 1866, under a tariff that was continually being increased, no additional furnaces were erected; but from 1866 to 1869 five have been put in operation. This statement, in the opinion of the Commissioner, needs no amplification, as the legitimate inferences from it are clear and unmistakable.

BESSEMER STEEL.

It is claimed by the majority of the committee that the fall in the price of steel, and especially of Bessemer steel, is the direct result of the recent establishment of Bessemer steel works in this country. They quote in evidence the memorial of ninety officers of principal railroads, asking a specific duty of two cents a pound on steel rails. They do not show, however, that these officers were ever authorized by their companies to ask for any such increase, nor do they specify how many and who of those petitioners are directly interested in the Bessemer steel establishment in this country.

The Bessemer process was invented sixteen years ago. Its great merit is that it produces steel *cheaply*. It is in England and in all Europe, as well as in America, an infant industry. It has been very rapidly successful, and the manufacturers of this country have the advantage of having saved the great expense and loss always incident to an experiment in manufacture. They waited until all that experience had been gained by others. They started their works under what seems to the Commissioner a sufficiently protective duty for anything, viz: forty-five per cent. But the result of the process has rapidly proved to be what its inventor claimed for it. It has become possible to produce steel at a very small advance on the price of iron. Competition, not with American, but with English, French, Belgian, and German manufacturers, has brought the price down. Steel rails are cheap. The Bessemer process is a success, and it is now a subject of complaint that it is so. The whole value of the process is in making rails cheap. The committee asks Congress to advance a duty of forty-five per cent. to almost double that amount that rails may be dear, and so that we may enjoy the inestimable advantage of using the Bessemer process, without deriving from it its only benefit, cheapness.

The whole capacity for the production of Bessemer steel in all Europe is not less than 550,000 tons annually.* It is this large production, this magnificent success of the Bessemer process, that has brought down the price; and that an American Congress should be seriously asked to reject the advantages to the whole railroad industry that must follow from this fall in price would be incredible to any one not long accustomed to the outcry of those who think it a disadvantage to buy anything cheap.

The steady decline in the price of steel rails has been wholly due to

* See Edinburgh Review, April, 1869, p. 191.

the rapid improvements that have been made in England in this new branch of manufacturing industry. The best quality of steel rails have been sold as low as \$79 per ton to our railroads, including all charges. This rate would bring their price in England at about \$48 50. We may hope to see a large decline from this rate, and probably shall, as the capacity for their manufacture in England far exceeds the demand. Such an indispensable article as good rails cannot be too low. That domestic competition had anything to do with the fall in price is perfectly preposterous. Domestic competition so far has amounted to nothing. The English manufacturers are making a fair profit upon the present price, which is all that they can do under the competition which exists in that country.

What if we do get cheap rails? What will be the calamity? Why, cheaper food, cheaper clothes, cheaper houses, cheaper fuel! At the same time that all these things will be cheaper, the farmer, the spinner, the lumberman, and the miner will be the better paid. The saving effected will be divided between consumer and producer. Is it right for Englishmen to be ruining us all the time in this way? Is there no protection from these English *vultures* that are preying upon us?

The United States are now building more miles of railroad than ever before. The old roads are using for repairs an enormous quantity of rails, and competent authority estimates that 750,000 tons will be used either for construction or repairs during the current year, besides 250,000 tons re-rolled. That this is not an extravagant estimate is shown by the fact that, according to the statistics of the Iron and Steel Association, 580,000 tons were manufactured in the United States in 1869, while 280,000 tons were imported—making, in the aggregate, 860,000 tons, to which must be added a large amount of steel rails, the exact quantity of which the Treasury Department has not yet reported; so that in all not less than 900,000 tons must have been required for 1869.

Now, with this immense interest, with the economy of which, as it affects the cost of transportation, and so the freedom of exchange, (which even protectionists acknowledge to be important within our own borders,) it is a matter of vital interest that there should be no interference to increase the necessarily large expense, not only of construction but of repairs. The use of steel rails, it has been proved by satisfactory experience, will diminish the cost of repairs very largely, because steel rails last from ten to twelve times as long as iron ones. This great economy the Bessemer process is putting within our reach by offering us steel rails at an advance over iron ones of only about \$20 a ton. The majority of the committee, sustained by the Committee of Ways and Means, ask for an increase of this duty from forty-five per cent. *ad valorem* to two cents a pound, which at present prices equals an advance of nearly \$20 a ton.

There were moved on the railroads of this country, in 1869, 125,000,000 tons of freight. One of the largest items of the cost of doing this work

was the cost of rails for repairs of the roads. The greater durability of steel rails greatly reduces this cost. We cannot afford to throw away the advantage which the cheapness of Bessemer steel offers to us. In short, the Commissioner feels that it is hardly worth while to argue that an industry that cannot live under a protection of forty-five per cent. must have some inherent weakness in its infant constitution that makes it hardly worth raising.

The Commissioner feels that it is proper to suggest that, as the proceeds of the duty received on the steel rails can well be spared from the treasury, that is fair to inquire what results might be expected from its entire abrogation. Steel rails may now be laid down in New York for \$60 to \$62 a ton, currency, gold at 112; this would place the price at once below that of iron rails, and nobody would buy iron were steel to be obtained as cheap; and this, perhaps, shows why so great an interest has been manifested in this particular industry, in which so small an amount of capital has as yet been embarked. It is the iron-rail makers who want steel rails to be kept dear.

If the 1,000,000 tons of rails which are this year to be laid down, either on new roads or in repair of old ones, could all be steel instead of iron, the cost of repairing them would be reduced from ten per cent. to three per cent., and probably less, per annum; a difference which, on the rails of this year alone, would make a difference of \$4,200,000, to be saved as a proportional annuity, deducted from the cost of transportation charged upon the wealth of the country. Multiply this by yearly additions until the whole 55,000 miles of railroad in this country is laid with a permanent steel track, as it certainly will be, with its 5,500,000 tons of rails, and the annual economy will be the difference between ten per cent. and three per cent. on that amount, or 550,000 against 165,000 tons, at \$60 a ton, \$23,100,000.

The Commissioner states these things broadly, but without any exaggeration, to show the immense magnitude of the question, and how nearly it comes home to the business of every person in the community. If it were necessary, rather than stop the progress of the country toward this great economy, that the few Bessemer steel works in the country should be bought up and destroyed, it undoubtedly would be for the interest of the country to do it, even if it were necessary to pension the proprietors and buy up the Bessemer patent, which the chairman of the Committee on Manufactures holds in trust for himself and associates. Fortunately it happens, in the case of this manufacture, that up to this time it cannot be claimed that any very large amount of capital or any large number of men have engaged in it. If it is true that this industry cannot survive with so small a protection as forty-five per cent., it is well that that fact should be known before any more men are tempted to embark to their ruin in it. But there can be no truth in the idea. The process is valuable, and is a success simply because it saves labor, the very thing that is dearer here than elsewhere. It is in the labor-

saving process that American industry has always triumphed; and that it will succeed in this is certain. To stimulate capital to embark in this enterprise too rapidly would only be to repeat the foolish waste of capital which excessive duties, in former years, have so often induced. Let capital and skill feel their way to success, and when obtained it will be seen. As for the foolish pretense that the few Bessemer steel establishments of this country have affected the whole European market, and reduced the price one-half, it can only be paralleled by an incident which is related by the celebrated Marco Polo, in his account of his travels, to the effect that when the great Khan of Tartary has partaken of his noon-day meal of horse-flesh, a herald with a loud voice makes proclamation in front of the tent that, the great Khan having dined, permission was graciously accorded to all other inhabitants of the world to eat their dinners.

TAXES ON SALT *vs.* TAXES ON TEA, SUGAR, AND COFFEE.

The majority of the committee also arraign the Commissioner in respect to the duties on salt, tea, sugar, and coffee as follows:

The Commissioner's anxiety in regard to the heavy tax which he says the salt tariff imposes on the people is ludicrous in its contrast with his total indifference to far heavier burdens. He estimates the added cost of the 39,000,000 bushels of salt used each year at \$3,900,000, or ten cents per bushel, owing to the tariff; but this is too high, as the average consumption is some forty pounds per head, which would show an annual amount of not over 26,000,000 bushels. On this the tariff is but eight cents, and if the price were enhanced to this extent—which we have shown not to be the case—the total increased expenditure by the people would only be about \$2,000,000—little over one-half of what the Commissioner has estimated it. Granting, however, that the Commissioner is correct in his statement, his reckless proposition to raise \$60,000,000 yearly from duties on tea, coffee, sugar, and molasses, the one-half of this to be paid by a tariff on sugar alone, would impose a far heavier burden on the people than the small revenue tax on salt.

Now, in reply to this, the Commissioner says, first, that his estimate of an annual consumption of salt of 39,000,000 bushels was the result of a very careful investigation of this subject by experts, which showed that the annual consumption for all purposes in the United States was approximately a bushel per head of the population, and an assertion to the contrary by the committee is merely assertion without knowledge; secondly, the tables previously submitted by the Commissioner, with every price-current in the United States, afford evidence which no argument can break down, that the price of salt is increased by the tariff to the extent which the Commissioner has represented.

Thus in 1860 we imported salt to the value of \$1,431,140, upon which we paid a tax of \$214,671, making the aggregate cost of the salt \$1,645,711.

In 1869 we imported salt to the value of \$1,281,004, upon which we paid a tax of \$1,136,225, making the aggregate cost of the salt \$2,417,229. Estimating the salt in both years to be of the same cost abroad, at

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twenty-five cents per hundred pounds, we received, in 1860, 572,456,000 pounds of salt, and in 1869, 412,401,600 pounds, or 160,000,000 pounds less than in 1860, and paid \$771,518 more money for it.

But the majority of the committee, in their anxiety to sustain the enormous duty on salt, endeavor to escape from the true issue, which, as made by the Commissioner, is, that the duty is very large as an *ad valorem* duty; and that while it takes a large sum from the people, it gives but a moiety of that sum to the treasury in return. They think to escape this fair demonstration by showing the very large amount now received from tea, coffee, and sugar into the treasury, and speak of these taxes as a "heavier burden" than the salt tax. But it was no part of the Commissioner's province to recommend how heavy the burden of the country should be, and the necessity for a very large revenue no one disputes. The problem submitted to the Commissioner was to investigate and ascertain in what way the necessarily heavy burden of taxation could be best borne. He believes that it can be done best by the system recommended by Adam Smith, "that will take out and keep out of the pockets of the people the least amount, and will put into the treasury of the nation the largest proportion of what it takes from the people."

Thus, if we tax salt, we tax all the processes of labor or production into which salt enters, and the people pay the revenue to the government, the bounty to the salt-maker, and also the interest or profit upon all the additional capital required in consequence of its enhanced price by those who use salt. But if we tax tea, or if we tax an article ready for consumption, which represents one of the results for which substantially all labor is exerted, and upon which the consumer pays only the revenue needed by the government with the least cost of collection, as it is a bulky article and cannot be smuggled. Hence, tea, coffee, sugar, and molasses are all fit articles for the imposition of duties, and the tax imposed upon them is not more diffused, and not nearly as much a burden upon labor, as a tax upon iron, steel, wool, hemp, salt, lumber, and the like. The one tax diffuses itself, *plus* only the cost of collection; the other diffuses itself as widely, *plus* bounties, profits, and other extras, amounting to a far greater sum than the tax itself.

The present tariff on tea, sugar, and coffee taxes the consumers of the United States approximately as follows: Coffee, one and a half cents per week, *per capita*; tea, one cent per week, *per capita*; sugar, one and a half cent per week, *per capita*—or an aggregate of four cents per week, and from these taxes the government derives almost the entire benefit, in a revenue of over fifty millions per annum. Can any one name three other taxes upon the whole list of imports and excises, which produce so great a return with so little of discomfort, and so little an enhancement of the cost of general production.

Now, on the other hand, let us see how the people are taxed under the existing tariff on other articles of prime necessity. In 1860 a pair

of 10 by 4 Holland blankets, weighing four and a half pounds, could be bought for \$3 25. The present market price of these same blankets is \$5. Therefore some causes have come in since 1860, which have enhanced the price of the blankets of the poor and rich alike, at least \$1 75 per pair. The committee know well that these causes have been mainly the duties on wool, and the duties on the finished products of wool; and they can, moreover, easily satisfy themselves that if there was no duty on blankets, 10 by 4 Hollands could now be sold in any of the Atlantic cities, charges for freights, insurance, and reasonable profits included, for less than \$3 per pair.

Now there are forty millions of people in the United States, and supposing five millions out of this number to require a pair of blankets per annum, then the annual tax levied on the masses for this single article of necessity, through the enhancement of price, will aggregate \$8,750,000; or nearly as much as the whole revenue collected from all the tea annually imported and consumed in the country.

Again, let any one select an article of woollen goods suitable for the cheapest thick winter-clothing—such an article as the women of the country who are not rich require—and then compare the price asked for the same in New York with the price at which it could be sold for in the absence of a tariff duty, and he will find, comparing the two, that the difference in price for the quantity requisite to make a cloak will amount to at least two dollars. Now there are twenty millions of females in the United States, and if we suppose that one-half of that number require a cloak each winter, then the tax levied on these women under the tariff will aggregate twenty millions, or nearly the amount now collected from all the tea and coffee imported into and consumed in the United States.

Taking facts like these into consideration, it is not difficult to understand why the friends of high protective duties talk so freely about the heavy burdens imposed on the people by the taxes on tea, sugar, and coffee, and have so little to say about the taxes imposed upon blankets and cloakings and other manufactures which are equally necessary and essential to the general welfare of the people.

With an expression of thanks to the minority of the Committee on Manufactures for the opportunity thus afforded me to explain or answer the charges of mistakes, carelessness, or misrepresentation presented in the report of the majority of the same committee,

I remain yours, most respectfully,

DAVID A. WELLS,

United States Special Commissioner of the Revenue.

CONCLUSION.

The minority of the Committee on Manufactures, actuated by an earnest desire that the charges preferred by the petitioners against the Special Commissioner of the Revenue should be fairly examined and discussed, have thought it but simple justice to him to give him the op-

portunity to make the foregoing statements. In their judgment, enough has been submitted therein to prove, *that the Commissioner has not been unfaithful to his official trust ; that he has not perverted the truth ; and that he has not misunderstood the bearing of the present system of tariff and taxation on the industry and development of the country.*

The minority furthermore cannot conceal from the public their opinion that in all these severe criticisms upon the report of the Special Commissioner of the Revenue, there is something more involved than a question of mere personalities. The true questions at issue are not whether the Special Commissioner has misstated the cost of manufacture of pig iron, the rates of inland freights, the price of gunny-cloth, or decrease of sheep, but they are rather, shall a burdensome and unprecedented system of taxation upon the whole people and the whole country be maintained, the proceeds of which, in great part, accrue to special or private interests, and do not flow into the national treasury for the benefit of the national revenue? And shall the Special Commissioner, for having remonstrated against and exposed the inequalities and iniquities of such a system, be driven from his office, and subjected to reproach and severe public animadversion?

Whatever the result of this controversy, in respect to the manner in which the Special Commissioner has discharged the duties of his office may be, one thing the minority of the Committee on Manufactures consider certain; and that is, that the rights of the citizen to exchange the products of his labor, subject only to the necessary taxation imposed by government for its legitimate expenses, (which right is now virtually denied by our laws,) will speedily assert itself. The highest right of property is the right to exchange it for other property. The system which declares that A shall trade with B, and shall not trade with C, can hardly be distinguished from slavery on any principle. Both systems tend to deprive the individual of a portion of the fruits of his labor without compensation. It is true that the "high protective system," so called, promises an individual compensation somewhere in the future, the same as slavery promised the negro his compensation in the "world to come." The latter promise was often more certain of fulfilment than the former, for it is certain that privation is loss all round; for out of nothing nothing comes.

The majority of the committee seem to consider the manufacturing interests of the country confined to mines, furnaces, and mills, forgetting that, however important these branches of industry may be, they only furnish the raw material for industries immensely greater and of vastly more importance to the consumers of the country. The number of persons employed in these industries are few as compared with the number employed in the manufacturing and preparing of those materials for the use of the people. The majority point to former reports of the Special Commissioner as containing views and suggestions at variance with views expressed in his last report, forgetting that two causes have

undoubtedly worked a modification of the views of the Special Commissioner. First, the necessity for the very excessive taxes heretofore collected no longer exists, the revenues of the country being over *one hundred millions* of dollars in excess of the annual requirements of the government; while the depressed condition of trade, the difficulties that surround our manufacturing interests and the uncertainties of the future, the falling off of our exports of manufactures and of breadstuffs, make it certain that the lightening of the unwonted burdens of taxation has become an absolute necessity. And, second, that aside from the necessity of the moment that taxation shall be reduced and the fetters removed from trade and commerce, the last report of the Special Commissioner shows that he has, in the discharge of his duties, patiently investigated all of our industrial interests, and the bearings of one interest upon another, with special reference to such taxation as would impose the least burden upon the mass of the people, and that he has evidently risen above the narrow views of those who surrounded him at the time of his appointment. He has become educated by his own investigations, and he now takes a broader and more expanded view of what should obtain as the true policy of taxation. He has evidently discovered that a high protective tariff is not the true system of political economy for the whole country, but that a tariff must be gauged by the necessities of the government, and imposed with a wise discrimination. In other words, that candid investigation, removed from the bias of partisanship, conducted with a view to conferring the greatest benefit upon the greatest number, and of strengthening the industrial interests of the country so that it may be possible for them to bear the great burdens necessarily imposed upon them, has changed the views of the Special Commissioner, as such an investigation would change the majority of this committee if they could withdraw from party politics and forget party allegiance while they were making it.

The great majority of the people of this country have not adopted and will not adopt the doctrines of the majority of the committee. On the contrary, if it shall be found that a majority of the members of this House favor those doctrines, the undersigned claim that they will not truly represent the sentiment of the country, but that they were elected upon entirely different issues, and that if an election could be had upon that issue alone, shorn of all other party questions, the great majority of the members of the next Congress would favor the views of the minority herein expressed.

The people of a large portion of this country have been so long and so eagerly engaged in looking after other people's rights that they have almost lost sight of their own. But they are now beginning to inquire to some purpose what has happened to themselves during the past ten years; and the more they investigate the question, the more indignant will they become. They will find that certain individuals—many of them conscientious, no doubt—have taken advantage of the clash of

arms in which we so long lived, and from which we have scarcely emerged, to set up a theory that they themselves can spend our money to so much better advantage than we can that we have no right to inquire what they are doing with it or whether they are taking too much of it.

For example, a duty of over one hundred per cent. is levied upon salt, and if an officer of the government or other persons venture to inquire whether so high a tax is wise, they are denounced as enemies to American industry, or as the paid agents of foreigners. Furthermore, the tariff, as it is now constituted, is in fact a tax upon exports. Thus, we may suppose, a farmer wishes to buy a barrel of salt; without the tariff he could get it for a bushel of wheat. But when the government imposes a duty of one hundred per cent. on salt it takes two bushels of wheat to pay it. The farmer buys the salt for one bushel of wheat, and is then required to hand the other bushel over to the government before he can get possession of his own property. If he buys of the home producer of salt the result is the same so far as the farmer is concerned. It still takes two bushels of wheat to pay for the same quantity of salt. In the one case the government gets the extra bushel, and in the other case the salt boiler gets it. But that "protects home industry," says somebody. How does it protect home industry to take an extra bushel of wheat away from the farmer? If he did not give it to the salt boiler he would give it to the shoemaker and get a pair of brogans, perhaps, in exchange for it. By so much, therefore, as the industry of the salt boiler is encouraged, that of the farmer and the shoemaker is discouraged. Under the so-called "protective system" we have a barrel of salt and two bushels of wheat passed to the credit of home industry; under the other system we have a barrel of salt, two bushels of wheat, and a pair of brogans. The human intellect is always striving to obtain more with less; to get a larger product with a smaller effort; to secure equal results with less industry. The high protective system, on the other hand, seeks to promote industry at the expense of the products of industry. The theory of the system is that the less you have to pay for foreign goods which you desire and will use the worse you are off. Therefore, if you could get your foreign goods *absolutely for nothing* you would be ruined!

The minority of the committee do not believe that a thinking, reading people can long be deceived by such absurdities. The business of the country at present is in a state of extreme depression, and there can be no doubt that excessive taxation is the main cause of that depression. A tariff, whether levied for one pretext or another, is in great part a tax. All taxes are assessments upon the aggregate industry of the country. *All trade is barter*, an exchange of product for product, of service for service; and national boundaries, so far as trade is concerned, are mere imaginary lines. A tariff averaging forty-five per cent. the minority claim is a tax of at least an average of thirty-five per cent. levied upon the industry and the exports of the country which establishes and main-

tains it. It is a fearful tax; one almost unprecedented in the history of nations, and the minority can think of nothing which so strikingly demonstrates the great natural resources and productive powers of our country as the fact that we have been able to survive it.

O. CLEVELAND,

Representative Fifth District, New Jersey.

JOHN M. RICE,

Representative Ninth District, Kentucky.

WASHINGTON, May, 1870.

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House documents

Bd.: [265,I,2.] 1869/70 = Congress 41, Sess. 2

Washington, DC 1870

Am.b. 3040-265,I,2

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